TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. ~~636~~. 229.

SECURITY WAREHOUSING COMPANY, W. B. McKEAND, THE L. C. HYDE AND BRITTAN BANK OF BELOIT, AND CITIZENS BANK OF MUKWONAGO, APPELLANTS,

vs.

ELBERT B. HAND, ANDREW DIETRICH, AND E. McDILL, TRUSTEES OF THE RACINE KNITTING COMPANY, BANKRUPT.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

FILED MARCH 19, 1906.

(20,138.)

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SUPREME COURT OF THE UNITED STATES.

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SECURITY WAREHOUSING COMPANY, W. B. McKEAND, THE L. C. HYDE AND BRITTAN BANK OF BELOIT, AND CITIZENS BANK OF MUKWONAGO, APPELLANTS,

vs.

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APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

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IN THE

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SEVENTH CIRCUIT.

OCTOBER TERM, A. D. 1903.

No. 1090.

IN THE MATTER OF RACINE KNITTING COMPANY, BANKRUPT.

SECURITY WAREHOUSING COMPANY, W. B. McKEAND,
THE L. C. HYDE & BRITTAN BANK OF BELOIT,
AND CITIZENS BANK OF MUKWONAGO,
Appellants,
vs.
ELBERT B. HAND, ANDREW DEITRICH AND G. E. McDILL,
TRUSTEES OF RACINE KNITTING COMPANY, BANKRUPT,
Appellees.

MR. HENRY S. ROBBINS,
Counsel for Appellants.

MR. JOHN B. SIMMONS,
Counsel for Appellees.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

1 District Court of the United States, for the Eastern District of Wisconsin.

United States of America, }
Eastern District of Wisconsin. } ss.

At a stated term of the District Court of the United States of America, for the Eastern District of Wisconsin, begun and held according to law, at the City of Milwaukee, in said district, on the first Monday (being the fourth day) of January A. D. 1904, present and presiding the Honorable William H. Seaman, Judge of said Court.

Placita.

Among other the following proceedings were had, to-wit:

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, The L. C. Hyde & Brittan Bank, W. B. McKeand and Citizens Bank of Mukwanago,
Petitioners.
—*vs*—
Elbert B. Hand, Andrew Dietrich and G. E. McDill, Trustees,
Respondents.

Be is remembered that heretofore to-wit, on the 5th day of October, A. D. 1903, came Chris Svenvig, Commercial Press Company and S. Freeman & Sons Manufacturing Company by their attorneys, Messrs. Cooper, Simmons, Nelson & Walker, and filed their petition praying adjudication of bankruptcy against the Racine Knitting Company, as follows:

Petition
judica
Oct. 5

To the Honorable William H. Seaman, Judge of the District Court of the United States for the Eastern District of Wisconsin:

The petition of Chris Svenvig of Racine, Wisconsin, and of the Commercial Press Company, a corporation organized under the
2 laws of the State of Wisconsin, and located at Racine in said State, and of the S. Freeman & Sons Manufacturing Company,

a corporation organized under the laws of Wisconsin and located at the city of Racine in said State, respectfully shows:

That the Racine Knitting Company is and at all times hereinafter mentioned has been a corporation duly organized under the laws of the State of Wisconsin, and having its principal office and place of business at the city of Racine, in Racine County in said State and that said corporation at all times has been and now is engaged principally in manufacturing, trading and mercantile pursuits.

That said Racine Knitting Company has for the greater portion of six months next preceding the date of filing this petition, had its principal place of business at Racine in the County of Racine and State of Wisconsin and District aforesaid and owes debts to the amount of One Thousand Dollars ($1000).

That your petitioners are creditors of said Racine Knitting Company having provable claims amounting in the aggregate in excess of securities held by them, to the sum of Five Hundred Dollars ($500.). That the nature and amount of your petitioners claims are as follows:—

The claim of said petitioner Chris Svenvig is upon two certain promissory notes representing an indebtedness due upon a building contract one of which notes bears date Feb'y 9th, 1903, is payable four months after date with 6 per cent interest and the amount due thereon is Four Hundred and Fifteen & 73/100 Dollars; and the other of which notes bears date Feb'y 26, 1903, is payable four months after date, with 6% interest, and the amount due thereon is $518.25.

3 The claim of said S. Freeman & Sons Manufacturing Company is also upon two certain promissory notes representing an indebtedness due for work, material and machinery furnished by said petitioner to said bankrupt, one of which notes bears date May 7th, 1903, is payable ninety days after date with six per cent interest and the amount due thereon is $253.75; and the other of said notes bears date July 8, 1903, is payable 90 days after date with 6% interest and amount due thereon is $384.38.

That the claim of said petitioner the Commercial Press Company is upon open account for stationery and printing furnished by it to said bankrupt and the amount due on the same is Seventy-nine and forty-one one hundredths dollars ($79.41).

And your petitioners further represent that said Racine Knitting Company is insolvent and that within four (4) months next preceding the date of this petition the said Racine Knitting Company committed an act of bankruptcy in that it did heretofore to-wit on the 5th day of October, A. D. 1903, admit in writing its inability to pay its debts and its willingness to be adjudged a bankrupt on that ground.

Your petitioners further respectfully show unto the Court and allege that said corporation the Racine Knitting Company are engaged in the manufacture of hosiery, underwear, knit goods of various kinds and that said business is conducted and operated under what is known as the mail order system; that the said company owns and operates factories in three different cities in the State of Wisconsin, namely Beloit, Ripon and Stevens Point. That at this season of the year the business of said company is larger than at other times
4 during the year by reason of sales for fall and winter use and that to preserve the good will of said business intact and its property and for the further reason that the products of said company are sold almost entirely by mail orders to agents and otherwise, it is absolutely necessary that the business of said company be continued without interruption or break; that by reason of its insolvency the said company is unable further to continue said business and that if said business were discontinued temporarily it would result in great loss and depreciation to said business, its good will and to said estate, and that for the preservation of said estate it is necessary that a Receiver be appointed at once pending the hearing upon this petition with the power to carry on and continue said business.

Wherefore your petitioners pray that service of this petition with a subpoena may be made upon said Racine Knitting Company as provided in the Acts of Congress relating to bankruptcy and that it may be adjudged by the Court to be a bankrupt within the purview of said acts; and further that Elbert B. Hand and Andrew Dietrich both of the city of Racine, Wisconsin, be appointed Receivers of the estate of said bankrupt corporation to take charge of and preserve said estate with power to carry on and continue said business pending the hearing upon this petition and until the further order of this court.

Dated Racine, Wisconsin, October 5th, A. D. 1903.

(Signed)
CHR. SVENVIG,
COMMERCIAL PRESS CO.
By/ T. P. LUKER,
Secretary-Treasurer
S. FREEMAN & SONS MFG. CO.,
By G. G. ROBERTS,
Treasurer.

COOPER, SIMMONS, NELSON & WALKER,
Attorneys.

ad-
, filed
03.

5 United States of America
Eastern District of Wisconsin. } ss.

Chris Svenvig, Thomas P. Luker and George G. Roberts being duly sworn on oath say that the said Chris Svenvig is one of the petitioners above named and the said Thomas P. Luker is an officer, to-wit: Secretary-Treasurer of the Commercial Press Company, a corporation, and one of the petitioners above named, and the said George G. Roberts is an officer, to-wit, Treasurer of the S. Freeman & Sons Manufacturing Company, a corporation and one of the petitioners above named and each severally verifies this petition, the said Chris Svenvig on his own behalf and the said Thomas P. Luker on behalf of said Commercial Press Company and the said George G. Roberts on behalf of said S. Freeman & Sons Manufacturing Company; and each further, on oath says, that the statements contained in the foregoing petition subscribed by them are true.

Before me John B. Simmons, Notary Public, this 5th day of October, A. D. 1903.

(Signed) JOHN B. SIMMONS,
Notary Public, Racine County, Wisconsin.

October 6, 1903. Consent of Racine Knitting Company to adjudication of bankruptcy and appointment of receivers filed as follows:

IN UNITED STATES DISTRICT COURT

Eastern District of Wisconsin.

In the Matter of The Racine Knitting
Company, a Corporation, Bankrupt. }

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o.,

Now comes the Racine Knitting Company, the bankrupt 6 above-named, by Kearney, Thompson & Myers, its attorneys, and enters its appearance herein, and to the petition of Chris Svenvig and others, creditors of said corporation, wherein an adjudication is prayed against said corporation of bankruptcy, and for the appointment of a receiver, or receivers, to take charge of, hold and administer its property, and consents to the entry of judgment of bankruptcy against said corporation, and to the appointment of a receiver, or receivers, to take charge of its property and assets, as prayed for in the petition of said creditors, without other or further notice.

Dated October 5th, A. D. 1903.

KEARNEY, THOMPSON & MYERS,
Attorneys for Racine Knitting Company.

And same day. Order appointing receivers entered as follows:

Order
1903,
ing

UNITED STATES DISTRICT COURT

For the Eastern District of Wisconsin

In the Matter of Racine Knitting Company, a corporation, Bankrupt. }

On reading and filing a verified petition for adjudication of bankruptcy presented by Chris Svenvig, The S. Freeman & Sons Manufacturing Company and the Commercial Press Company, all of Racine, Wisconsin, creditors, against the Racine Knitting Company, a corporation of the city and county of Racine, and State of Wisconsin, in said District, which petition is still pending; and it satisfactorily appearing that said Racine Knitting Company has committed an act of bankruptcy and that its property is deteriorating in value and that it is necessary for the preservation of said property and for the protection of the interests of the creditors of said
7 Racine Knitting Company that a receiver be appointed pending the hearing upon said petition with authority to carry on and continue the business of said corporation; and the said Racine Knitting Company by its attorneys having stipulated in writing that a Receiver or Receivers be appointed by the Court for that purpose, Now, on motion of Cooper, Simmons, Nelson & Walker, attorneys for said petitioning creditors,

It Is Ordered that Elbert B. Hand and Andrew Dietrich, both of Racine, Wisconsin, be and they are hereby appointed receivers of all and singular the property, real and personal of the Racine Knitting Company with the usual powers of receivers in such cases and with full power and authority to take possession of, care for and preserve said property, to collect moneys due said company, and with further power to carry on and continue the business of said corporation, the Racine Knitting Company, to cause the material on hand to be manufactured into goods for the purposes of sale and to fill orders received or which may be hereafter received by said com-ct. 6. point- ver. pany or by said receivers and to dispose of goods manufactured or to be manufactured for cash in compliance with such orders.

It is further ordered that before entering upon the discharge of their duties as such receivers, the said Elbert B. Hand and Andrew Dietrich execute and file with the clerk of this court a bond to the United States in the penal sum of Forty thousand dollars to be approved by the clerk of this court, conditioned for the faithful performance of their duties as receivers, and to faithfully and truly account for all moneys, assets and effects of the estate of said bankrupt which shall come into their hands and possession.

Dated October 6, A. D. 1903.

(Signed) Wm. H. Seaman,
Judge.

8 October 26, 1903. Adjudication of bankruptcy of Racine Knitting Company entered as follows:

n. Oct. 3.

ADJUDICATION OF BANKRUPTCY.

In the District Court of the United States

For the Eastern District Wisconsin.

In the Matter of Racine Knitting Company, Bankrupt. } In Bankruptcy.

At Milwaukee, in said District, on the 26th day of October, A. D. 1903, before the Honorable William H. Seaman, Judge of said Court in Bankruptcy, the petition of Chris Svenvig, Commercial Press Company and S. Freeman & Sons Manufacturing Company, that Racine Knitting Company, be adjudged a Bankrupt within the true intent and meaning of the Acts of Congress relating to bankruptcy, having been heard and duly considered, the said Racine Knitting Company is hereby declared and adjudged bankrupt accordingly.

Witness the Honorable William H. Seaman, Judge of said Court, and the seal thereof, at Milwaukee, in said district, on the 26th day of October, A. D. 1903.

(Signed) Edward Kurtz,
(Seal) *Clerk.*

November 17, 1903. Intervening petitions of Security Warehousing Company, W. B. McKeand and The L. C. Hyde & Brittan Bank filed, as follows:

PETITION OF SECURITY WAREHOUSING COMPANY.

Petition
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17, 19

In the District Court of the United States

In and for the Eastern District of Wisconsin.

In the Matter of Racine Knitting Company, Bankrupt. } In Bankruptcy.

To the Honorable William H. Seaman, Judge of said Court:

Your petitioner, Security Warehousing Company, respectfully represents that:

9 I. It is a corporation organized under the laws of the State of New York for the purpose of conducting, and is, and has been for a number of years, conducting a warehousing business in the different states of the Union, and in said business issues warehouse receipts covering property so taken into its custody.

II. That on, to-wit, the 15th day of October, 1901, said Racine Knitting Company, being then in the possession and control thereof, leased to this petitioner the following described premises, situate in the city of Racine, County of Racine, and State of Wisconsin, to-wit:

The entire first and second floors of brick building known as Chicago, Milwaukee & St. Paul Railway Company's premises, formerly occupied as a machine shop, situated on Lots five (5) and eight (8), Block six (6), Harbor Addition to city of Racine; said floors measuring forty feet (40′) from north to south by sixty feet (60′) from east to west, said premises being demised for the term of one year and so long thereafter as property should remain thereon for which this petitioner had issued receipts which were still in force and effect.

That immediately thereafter this petitioner entered in the open, visible and notorious possession of said premises, and has so continued since that day, and that at different times between the 23rd day of October, 1902, and the 8th day of April, 1903, the Racine Knitting Company delivered to this petitioner one hundred and sixteen cases said to contain knit goods of different varieties, and requested your petitioner to receive the same in storage and to issue to said Racine Knitting Company warehouse receipts covering the same.

10 That in pursuance of said request, this petitioner did receive said goods and placed the same on the above described premises and has remained in the open, visible and notorious pos-

f Secur-housing l Nov.

session and control of said goods from that time until the present time, and did issue and deliver to said Racine Knitting Company warehouse receipts covering the said goods, a copy of one of which receipts is hereto attached and made a part hereof as exhibit "A"; and that the other of said receipts were like said exhibit "A" in form, and differ therefrom only in dates, numbers, and quantity and quality of property so stored, which are as follows:

Racine,	Oct.	23,	1902,	3112–37	cases	containing	ladies	vests,
"	Nov.	13,	1902,	3154–19	"	"	assorted	underwear,
"	"	25,	"	3237–21	"	"	"	"
"	Dec.	1,	"	3242–3	"	"	"	hosiery.
"	"	"	"	3243–2	"	"	"	"
"	"	"	"	3244–4	"	"	"	"
"	"	"	"	3245–4	"	"	"	"
"	"	"	"	3246–3	"	"	"	"
"	"	"	"	3247–4	"	"	"	"
"	Jan.	5,	1903,	3327–7	"	"	Union	suits, Men's.
"	Apr.	8,	"	3576–4	"	"	Assorted	hosiery
"	"	"	"	3577–8	"	"	"	"

III. That on, to-wit, the 24th day of January 1903, said Racine Knitting Company, being then in the possession and control thereof, leased to this petitioner certain other premises situated in the town of Stevens Point, County of Portage, State of Wisconsin, described as follows:

11 A portion of the storage space of the one-story iron-clad warehouse, said warehouse being a part of the Knitting Plant located on the Northeast corner of Park and Prairie Streets, same measuring about fifty (50) feet from North to South by thirty (30) feet from east to west, the section of said warehouse hereby leased being a space partitioned from the floor space of the warehouse and located in the southeast corner thereof, measuring thirty-two (32) feet from north to south by eleven (11) feet from east to west; said premises being demised for the term of one year and so long thereafter as property should remain therein for which the petitioner had issued receipts which were still in force and effect.

That immediately thereafter this petitioner entered into the open, visible and notorious possession of said described premises, and has so continued since that day, and that at different times between the 26th day of January, 1903, and the 18th day of April, 1903 inclusive, said Racine Knitting Company delivered to this petitioner fourteen other cases said to contain knit goods of different varieties, and requested your petitioner to receive same in storage and to issue to said Racine Knitting Company receipts covering the same.

That in pursuance of said request, this petitioner did receive said goods and placed the same on the last above described premises, and has remained in the open, visible and notorious possession and control of said goods from that time until the present time, and did issue and deliver to said Racine Knitting Company certain warehouse receipts covering the said goods, said receipts being like exhibit "A" hereto attached, and differ therefrom only in dates, numbers, and quantity and quality of property so stored, and location of premises, which are as follows:

Stevens	Point,	Jan.	26,	1903,	3413-2	cases	containing		union	suits	(men')
"	"	"	"	"	3414-1	"	"		"	"	"
"	"	"	"	"	3415-1	"	"		"	"	"
"	"	"	"	"	3421-2	"	"	Assorted	"	"	"
"	"	"	"	"	3422-1	"	"		"	"	"
"	"	"	"	"	3423-1	"	"		"	"	"
"	"	"	"	"	3424-1	"	"		"	underwear	
"	"	"	"	"	3425-1	"	"		"	"	
"	"	April	18,	"	3608-1	"	"		"	"	
"	"	"	"	"	3609-1	"	"		"	"	
"	"	"	"	"	3610-1	"	"		"	"	
"	"	"	"	"	3611-1	"	"		"	"	

That your petitioner is informed and believes, and therefore charges the fact to be, that said Racine Knitting Company, bona fide, and in the due course of business, endorsed and delivered six of said receipts to the L. C. Hyde & Brittan Bank of Beloit, Wisconsin, as security for four notes aggregating $5300.00, and bona fide and in the due course of business endorsed and delivered eighteen of said receipts to W. B. McKeand of Chicago, Illinois, as security for five notes aggregating $8800.00. That said L. C. Hyde & Brittan Bank and W. B. McKeand in good faith and in the due course of business, loaned said moneys to said Racine Knitting Company, and accepted said warehouse receipts as collateral security therefor, and that all of said notes are still unpaid, and are still held and owned by said L. C. Hyde & Brittan Bank and W. B. McKeand, who also hold said warehouse receipts as security therefor, and by reason thereof, assert liens upon said property, and have presented to this petitioner said warehouse receipts and have demanded 13 that this petitioner deliver to them the property covered by the same, and that this petitioner desires to comply with said requests, but that said E. B. Hand and Andrew Dietrich, receivers herein, unlawfully interfere with this petitioner in its attempts to deliver said property.

Wherefore, your petitioner prays that an order may be entered herein, directing E. B. Hand and Andrew Dietrich, the receivers herein to desist and refrain from further interfering with this petitioner in its control, care and custody of said property covered by the above mentioned warehouse receipts, and in its delivery of said property to said Bank and said W. B. McKeand.

Security Warehousing Company,
By Henry S. Robbins,
Its Counsel.

United States of America,
Northern District of Illinois, } ss.
Cook County.

W. H. BANKS being first duly sworn, deposes and says:

That he is District Manager of the Security Warehousing Company, petitioner in the foregoing petition. That he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated to be upon information and belief, and as to those he believes the same to be true.

(Signed) W. H. Banks.

Subscribed and sworn to before me this 16th day of November, A. D. 1903.

Martin Howard Foss,
Notary Public.

(Seal)

14 EXHIBIT "A"

R-N 8117 Guaranteed Storage Receipt of No. 3244

Security Warehousing Company

General Offices: 346 Broadway, New York,

District Offices: 540 The Rookery, 217 La Salle St Chicago.
Date December 1, 1902, Issued at Chicago, Illinois,

The Security Warehousing Company certifies that it has received on storage in Premises, No. 134, located at Racine, Wis., 1st Floor C. M. & St. P. Ry. Co.'s Whse. subject to the order of Racine Knitting Company, Racine, Wisconsin, the following described Commodity, viz: Four (4) cases, Nos. 4070, 4073, 4080 and 4090, said to contain not less than Two Hundred Sixty (260) Dozen Pairs Assorted Hosiery and be as per Manifest herewith designated as Exhibit "A-235". To be known as Lot No. 286.

Said Commodity to be retained on Storage and delivered only upon surrender of this receipt properly endorsed and payment of all

Exhibit
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charges thereon, Provided, however, if such Commodity or any part of it remaining undelivered be not called for within one year from the date hereof, the Security Warehousing Company may, at its option, upon giving three days' notice of its election so to do, store the whole or the undelivered part of such Commodity elsewhere at the expense of whomsoever may then be entitled to the same. The Security Warhousing Company in no event shall be under any liability for errors or mistakes committed in the inspection of such Commodity unless claim in writing therefor be made upon it within one year from the date hereof, and the said Company shall not be liable for the destruction of, or damages to, such Commodity by fire, water or from inherent qualities of the property.

This Receipt void unless signed by an Agent and Countersigned by W. H. Banks, District Manager.

Security Warehousing Company,
By Alex. Greig,
President.

Charges as per Contract,
E. C. Curtis,
Agent.
Countersigned:
W. H. Banks,
District Manager.

Guarantee: This Storage Receipt is registered with the National Surety Company of New York, which Company hereby Guarantees that the Security Warehousing Company shall honestly keep and faithfully perform all its lawful obligations as to Care and Delivery only of the Commodity specifically described therein: Provided, however, that no action, suit or proceeding shall be had or maintained against said National Surety Company, unless process be served upon it therein, within thirteen calendar months from the date hereof.

Date December 1, 1902,
Executed at Chicago, Illinois,

National Surety Company,
By Arthur J. Andrews,
Attorney in Fact.

Endorsed:
Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

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PETITION OF W. B. McKEAND.

In the District Court of the United States

In and for the Eastern District of Wisconsin.

In the Matter of Racine Knitting Company, Bankrupt. } In Bankruptcy.

To the Honorable William H. Seaman, Judge of said Court.

Your petitioner, W. B. McKeand, of the City of Chicago, State of Illinois, respectfully represents to the Court:

I. That at sundry times between the 23rd day of October, 1902 and the 18th day of April, 1903, inclusive, the bankrupt herein presented to this petitioner eighteen certain guaranteed storage receipts issued by the Security Warehousing Company covering seventy-nine cases of knit goods of different varieties, a copy of one of which said receipts is hereto attached and made a part hereof as "Exhibit A", and the balance of said receipts were similar, except as to date number, quantity and quality of the property stored and location of premises which were as fololws:

16	Racine, Dec. 1, 1902,	3242,	3	cases containing assorted hosiery.
	" " " "	3243	2	" " " "
	" " " "	3244	4	" " " "
	" " " "	3245	4	" " " "
	" " " "	3246	3	" " " "
	" " " "	3247	4	" " " "
	" Oct. 23rd "	3112	37	" " Ladies Vests
	Stevens Point, Jan. 26, 1903,	3421	2	cases containing Assorted Union Suits
	" " " " "	3422	1	" " " " "
	" " " " "	3423	1	" " " " "
	" " " " "	3424	1	" " " Underwear
	" " " " "	3425	1	" " " "
	Racine, Apr. 8 "	3576	4	" " " Hosiery
	" " " "	3577	8	" " " "
	Stevens Point, Apr. 18, "	3608	1	" " " Underwear
	" " " " "	3609	1	" " " "
	" " " " "	3610	1	" " " "
	" " " " "	3611	1	" " " "

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That at sundry times between the 23rd day of June, 1903, and the 21st day of August, 1903, inclusive, this petitioner, in good faith, and in the regular course of business, without knowledge or consent of any defect in said guaranteed storage receipts, loaned to said Racine Knitting Company, moneys aggregating $8800. represented by five certain promissory notes signed by said Racine Knitting Company, and held said guaranteed storage receipts as security or collateral therefor, that said notes are still unpaid and there is now due thereon $8800., with interest and petitioner still holds said guaranteed storage receipts as collateral therefor and desires to have
17 said property described in said receipts delivered to him to the
end that he may realize on said collateral and apply the proceeds to the payment of said notes.

II. That your petitioner is informed and believes and therefore states the fact to be, that on, to-wit, the 15th day of October, 1901, said Racine Knitting Company, being then in the possession and control thereof, leased to the Security Warehousing Company the following described premises, situated in the City of Racine, County of Racine and State of Wisconsin; the entire first and second floors of brick building known as Chicago, Milwaukee & St. Paul Railway Company's premises, formerly occupied as a machine shop, situated on Lots five (5) and eight (8), Block six (6), Harbor Addition to City of Racine; said floors measuring forty feet (40′) from North to South by sixty feet (60′) from East to West, said premises being demised for the term of one year and as long thereafter as property should remain thereon, for which said Security Warehousing Company had issued receipts, which were still in force and effect; that immediately thereafter, said Security Warehousing Company entered into the open, visible and notorious possession of said premises, and has so continued since that day and that at the dates of the receipts numbered 3112, 3242, 3243, 3244, 3245, 3246, 3247, 3576 and 3577, the said Racine Knitting Company delivered to said Security Warehousing Company sixty-nine (69) cases said to contain knit goods of different varieties and requested said Security Warehousing Company to receive the same in storage, and issue its guaranteed storage receipts covering the same, and that in pursuance of said request, said Security Warehousing Company did receive said goods and placed the same on said premises, and has remained in the open, visible and notorious possession of said
18 goods from that time until the present time, and did issue and
deliver to said Racine Knitting Company, the warehouse receipts above mentioned, and herein averred to have been pledged to this petitioner as aforesaid.

III. That your petitioner is informed and believes, and therefore states the fact to be, that on to-wit, the 24th day of January, 1903, said Racine Knitting Company, being then in the possession and control thereof, leased to said Security Warehousing Company certain other premises situated in the Town of Stevens Point, County of Portage, and State of Wisconsin, described as follows, to-wit:

A portion of the storage space of the one story iron-clad warehouse, said warehouse being a part of the knitting plant located on the north-east corner of Park & Prairie Streets, same measuring about fifty feet (50′) from North to South by thirty feet (30′) from east to west, the section of said warehouse hereby leased being a space partitioned from the floor space of the warehouse, and located in the south-east corner thereof, measuring thirty-two feet (32′) from the north to south by eleven feet (11′) feet from east to west, said premises being demised for the term of one year and as long thereafter as property should remain thereon, for which said Security Warehousing Company had issued receipts which were still in force and effect; that immediately thereafter, said Security Warehousing Company entered into the open, visible and notorious possession of said premises, and has so continued since that date, and at the dates of the receipts numbered 3608, 3609, 3610, 3611, 3421, 3422, 3423, 3424 and 3425 the said Racine Knitting Company delivered to said Security Warehousing Company ten (10) cases said to contain knit goods of different varieties and requested said Security Warehousing Company to receive the same in storage and to issue its guaranteed storage receipts covering the same, and that in
19 pursuance of said request, said Security Warehousing Company did receive said goods and placed the same on said premises, and has remained in open, visible and notorious possession of said goods from that time until the present time, and did issue and deliver to said Racine Knitting Company warehouse receipts above mentioned, and herein averred to have been pledged by said Racine Knitting Company to this petitioner, as aforesaid.

That this petitioner has applied to said Security Warehousing Company for the delivery of said goods mentioned in said receipts, but said Security Warehousing Company has informed this petitioner that E. B. Hand and Andrew Dietrich, the receivers herein, improperly and unlawfully interfered with the delivery of said Security Warehousing Company's delivery of said goods to your petitioner.

Wherefore your petitioner prays that an order may be entered herein, directing said Receivers to desist and refrain from interfering with the custody and control of said goods by said Security Warehousing Company and from interfering with said Security Warehousing Company in delivering said goods to your petitioner, and to desist and refrain from asserting any right or title to said goods as against your petitioner.

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And your petitioner will ever pray.

W. B. McKeand,
By Henry S. Robbins,
his Counsel.

United States of America,
State of Illinois,
County of Cook. } ss.

W. B. McKeand, being first duly sworn, deposes and says that he is the petitioner in the foregoing petition; that he has read the same and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated to be on information and belief, and as to those matters, he believes the same to be true.

(Signed) W. B. McKeand.

Subscribed and sworn to before me this 16th day of November, A. D. 1903.

Archibald Cattell,
Notary Public.

(Seal)

EXHIBIT "A"

Exhibit house

Guaranteed Storage Receipt of No. 3112
Security Warehousing Company,
General Offices: 346 Broadway, New York,
District Offices: 540 The Rookery, 217 La Salle St., Chicago.

Date October 23, 1902, Issued at Chicago, Illinois.

The Security Warehousing Company certifies that it has received on storage in Premises No. 134 located at Racine, Wisconsin, 2nd Floor C. M. & St. P. Whse., subject to the order of Racine Knitting Company, Racine, Wisconsin, the following described Commodity, viz: Thirty-seven (37) cases, Nos. 1 to 37 inclusive, said to contain not less than Thirteen Hundred Ninty-eight (1398) Ladies Vests, and be as per Manifest herewith designated as Exhibit "A-216". To be known as Lot No. 267.

Ware- pt. Said Commodity to be retained on Storage, and delivered only upon surrender of this receipt properly endorsed and payment of all charges thereon, Provided, however, if such Commodity or any part of it remaining undelivered be not called for within one year from date hereof, the Security Warehousing Company may, at its option, upon giving three days' notice of its election so to do, store the whole or the undelivered part of such Commodity elsewhere at the expense of whomsoever may then be entitled to the same. The Security Warehousing Company in no event shall be under any liability for errors or mistakes committed in the inspection of such Commodity unless claim in writing therefor be made upon it within
one year from the date hereof, and the said Company shall not be
21 liable for the destruction of, or damages to, such Commodity
by fire, water or from inherent qualities of the property.

This Receipt void unless signed by an Agent and Countersigned by W. H. Banks, District Manager.

SECURITY WAREHOUSING COMPANY,
By ALEX. GREIG,
President.

Charges as per Contract,
E. C. CURTIS,
Agent.
Countersigned
W. H. BANKS,
District Manager.

Guarantee.—This Storage Receipt is registered with the National Surety Company, of New York, which Company hereby Guarantees that the Security Warehousing Company shall honestly keep and faithfully perform all its lawful obligations as to Care and Delivery only of the Commodity specifically described therein; Provided, however, that no action, suit or proceeding shall be had or maintained against said National Surety Company, unless process be served upon it therein, within thirteen calendar months from the date hereof.

Date October 23, 1902,
Executed at Chicago, Illinois.

NATIONAL SURETY COMPANY.
By E. M. HARNETT.
Attorney in Fact.

Endorsed:
RACINE KNITTING CO.,
Per H. S. BLAKE,
Treas. & Mgr.

22 PETITION OF THE L. C. HYDE & BRITTAN BANK.

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United States of America } ss.
Eastern District of Wisconsin.

IN THE DISTRICT COURT OF THE UNITED STATES

In and for said District.

In the matter of Racine Knitting Company, Bankrupt. } In Bankruptcy:

To the Honorable William H. Seaman, Judge of said Court:

Your petitioner, The L C Hyde & Brittan Bank of the City of Beloit, State of Wisconsin, respectfully represents to the court:

I. That at sundry times between the 13th day of November, 1902 and the 26th day of January, 1903, inclusive, the bankrupt herein presented to this petitioner six guaranteed storage receipts issued by the Security Warehousing Company, covering fifty one cases of knit goods of different varieties, a copy of one of which said receipts is hereto attached and made a part hereof as exhibit "A", and the balance of said receipts were similar except as to date, number, quantity and quality of the property stored, and location of premises, which are as follows:

Racine Nov. 13, 1902 3154 19 cases containing 146 suits of underwear

Racine Nov 25, 1902 3237 21 cases containing 559 suits of assorted underwear.

Racine Jan 5, 1903, 3327 7 cases containing 900 union suits (Mens)

Stevens Pt., Jan 26, 1903 3413 2 cases containing 170 union suits (Mens)

Stevens Pt., Jan 26, 1903, 3414 1 case containing 130 union suits (mens)

Stevens Pt., Jan 26, 1903, 3415 1 case containing 142 Union suits (Mens)

That at sundry times between the 20th day of July, 1903, and
23 the 8th day of September, 1903, inclusive, this petitioner in good faith and in the regular course of business, without any knowledge or notice of any defect in said guaranteed storage receipts, loaned to said Racine Knitting Company moneys aggregating

C. filed 03. $5300.00, represented by four certain promissory notes signed by said Racine Knitting Company, and held said guaranteed storage receipts as security or collateral therefor. That said notes are still unpaid, and there is due thereon $5300.00, with interest, and petitioner still holds said guaranteed storage receipts as collateral therefor, and desires to have said property described in said receipts delivered to it, to the end that it may realize on said collateral and apply the proceeds to the payment of said notes.

II. That your petitioner is informed and believes, and therefore charges the fact to be, that on, to-wit; the 15th day of October, 1901, said Racine Knitting Company, being then in the possession and control thereof, leased to the Security Warehousing Company the following described premises, situate in the city of Racine, county of Racine, State of Wisconsin, to-wit:

The entire first and second floors of brick building known as Chicago, Milwaukee & St Paul Railway Company's premises, formerly occupied as a machine shop, situated on Lots five (5) and eight (8), Block six (6), Harbor Addition to city of Racine, said premises being demised for the term of one year, and so long thereafter as property should remain thereon for which said Security Warehousing Company had issued receipts which were still in force and effect. That immediately thereafter said Security Warehousing Company entered into the open, visible and notorious possession of said premises and has so continued since that day; and that at the dates of the receipts numbered 3154, 3237 and 3327, the said Racine Knitting Company delivered to said Security Warehousing 24 Company forty-seven cases said to contain knit goods of different varities and requested said Security Warehousing Company to receive the same in storage and to issue warehouse receipts covering the same; and that in pursuance of said request, said Security Warehousing Company did receive said goods and place the same on said premises, and has remained in the open, visible and notorious possesssion of said goods from that time until the present time, and did issue and deliver to said Racine Knitting Company the warehouse receipts above mentioned, and herein averred to have been pledged to this petitioner as aforesaid.

III. That your petitioner is informed and believes, and therefore charges the fact to be, that on, to-wit: the 24th day of January, 1903, said Racine Knitting Company, being then in the possession and control thereof, leased to said Security Warehousing Company certain other premises, situate in the town of Stevens Point, County of Portage, State of Wisconsin, described as follows, to-wit:

"A portion of the storage space of the one story iron clas ware-

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house, said warehouse being a part of the knitting plant located on the northeast corner of Polk and Prairie Streets same measuring about fifty (50) feet from north to south by thirty (30) feet from east to west, the section of said warehouse hereby leased being a space partitioned from the floor space of the warehouse and located in the Southeast corner thereof, measuring thirty two (32) feet from north to south by eleven (11) feet from east to west", said premises being demised for the term of one year, and so long thereafter as property should remain thereon for which said Security Warehousing Company had issued receipts which were still in force and effect.

That immediately thereafter said Security Warehousing Company entered into the open, visible and notorious possession of said premises and has so continued since that day, and that at the dates of the receipts numbered 3413, 3414 and 3415, the said Racine Knitting Company delivered to said Security Warehousing Company four other cases said to contain knit goods of different varieties and requested said Security Warehousing Company to receive the same in storage and to issue warehouse receipts covering the same, and that in pursuance of said request, said Security Warehousing Company did receive said goods and place the same on said premises, and has remained in the open, visible and notorious possession of said goods from that time until the present time, and did issue and deliver to said Racine Knitting Company the warehouse receipts above mentioned, and herein averred to have been pledged by said Racine Knitting Company to this petitioner as aforesaid.

That this petitioner has applied to said Security Warehousing Company for the delivery of said goods mentioned in said receipts, but said Security Warehousing Company has informed this petitioner that E. B. Hand and Andrew Dietrich the receivers herein, improperly and unlawfully interfere with the delivery by said Security Warehousing Company of said goods to your petitioner.

Wherefore, your petitioner prays that an order may be entered herein, directing said receivers to desist and refrain from interfering with the custody and control of said goods by said Security Warehousing Company, and from interfering with said Security Warehousing Company in delivering said goods to your petitioner, and to desist and refrain from asserting any right or title to said goods as against your petitioner.

And your petitioner will ever pray

THE L. C. HYDE & BRITTAN BANK
BY HENRY S. ROBBINS
its counsel

L. C.
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26 United States of America
Eastern District of Wisconsin. } ss:

E. S. Greene being first duly sworn, deposes and says that he is the cashier of The L C Hyde & Brittan Bank, petitioner in the foregoing petition. That he has read the said petition, and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated to be upon information and belief, and as to those matters, he believes the same to be true.

E. S. Greene

Subscribed and sworn to before me this 14 day of November, A D 1903.

J. W. Bates

(Notarial Seal) *Notary Public for Wisconsin.*

My Commission expires Oct 9th 1903 Residence 319 State St Beloit Wis

27 Form 10 A
RN—8117 No. 3243

Guaranteed Storage Receipt of

SECURITY WAREHOUSING COMPANY

General Offices: 346 Broadway, New York.

District Offices: 540 The Rookery, 217 LaSalle St. Chicago.

Date December 1, 1902, Issued at Chicago, Illinois, The Security Warehousing Company certifies that it has received on storage in Premises, No. 134 located at Racine, Wis., 1st Floor C. M. & St. P. Ry. Co's Whse. subject to the order of Racine Knitting Company, Racine, Wisconsin, the following described Commodity, viz: Nineteen (19) cases Nos. 500 to 518 inc., said to contain not less than One Hundred Forty-six (146) Suits Underwear, and be as per manifest herewith designated as Exhibit "A—228." To be known as Lot No. 279.

Said Commodity to be retained on Storage, and delivered only upon surrender of this receipt properly endorsed and payment of all charges thereon. Provided, however, if such Commodity or any part of it remaining undelivered be not called for within one year from the date hereof, the Security Warehousing Company may, at is option, upon giving three days' notice of its election so to do, store the whole or the undelivered part of such Commodity elsewhere at the expense of whomsoever may then be entitled to the same. The Security Warehousing Company in no event shall be under any liability for errors or mistakes committed in the inspection of such Commodity unless claim in writing therefor be made upon it within one year from the date hereof, and the said company shall not be liable for the destruction of, or damages to such Commodity by fire, water or from inherent qualities of the property.

This Receipt void unless signed by an Agent and Countersigned by W. H. Banks, District Manager.

SECURITY WAREHOUSING COMPANY,
ALEX GREIG
President.

Charges As per Contract,
E. C. CURTIS,
Agent.

Countersigned
W. H. BANKS,
District Manager.

Guarantee.—This Storage Receipt is registered with the National Surety Company, of New York, which Company hereby Guarantees that the Security Warehousing Company shall honestly keep and faithfully perform all its lawful obligations as to Care and Delivery only of the Commodity specifically described therein; Provided, however, that no action, suit or proceeding shall be had or maintained against said National Surety Company, unless process be served upon it therein, within thirteen calendar months from the date hereof.

Dated December 1, 1902, Executed at Chicago, Illinois,
NATIONAL SURETY COMPANY,
By ARTHUR J. ANDREWS,
Resident Vice President. Attorney in Fact.

Attest:

....

Resident Asst. Secretary.
RACINE KNITTING CO.,
Per H. S. BLAKE,
Treas. & Mgr.

L. C.
l. filed
1903.

The Property Mentioned Below is Hereby Released from this Storage Receipt for Delivery from Warehouse.

Date.		Quantity.		Merchandise.	Marks and Numbers.	Signature.

28 November 23, 1903. Answers of receivers to said petitions filed.

ANSWER OF RECEIVERS TO PETITION OF SECURITY WAREHOUSING CO.

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United States of America, }
Eastern District of Wisconsin,— } ss.

IN THE DISTRICT COURT OF THE UNITED STATES

In and for said District.

In The Matter Of
Racine Knitting Company } In Bankruptcy.
Bankrupt.

Now come Elbert B. Hand and Andrew Dietrich, receivers of the Racine Knitting Company, by Cooper, Simmons, Nelson and Walker their attorneys, and answering to the petition of the Security Warehousing Company heretofore filed in said Court, for cause why said petition should not be granted, respectfully show unto the Court:—

1. That they admit said Security Warehousing Company is a corporation organized under the laws of the State of New York, and that in the transaction of its business it is and for a number of years past has been accustomed to issue instruments purporting to be warehouse receipts, and similar in form to "Exhibit A" attached to said petition, but on information and belief they deny that said Security Warehousing Company was or is a warehouseman in the legal sense of that term, or that it is or at the times referred to in said petition was in good faith or in fact carrying on business as such, and deny that it has or ever had any warehouse for the reception and storage of goods, merchandise or other personal property, but on the contrary allege that its business has at all said times consisted in and been confined to the issuing of storage receipts so-called, for goods remaining and intended to remain upon the premises of the original owner, which receipts might be and were intended to be used as collateral security, and by means whereof such original owner, without the filing of any paper or instrument in a public registry office, indicating a charge, lien or 29 incumbrance upon the property, and without any actual change of possession of such property, might be enabled to create liens thereon,—which business as so carried on by said petitioner, was and is

contrary to public policy and essentially violate of the laws of the State of Wisconsin relating to the sale, pledge and mortgaging of personal property.

2. On information and belief they admit that leases in form were made as charged in said petition, by said Racine Knitting Company to said Security Warehousing Company, of certain premises in the city of Racine, Wisconsin, and certain other premises in the city of Stevens Point, Wisconsin, as described;—also that sertain writings or instruments purporting to be warehouse storage receipts, of one of which "Exhibit A" attached to said petition is a copy, and of which the others were similar in form except as to dates, numbers, quantity and character of property stored, and location of premises, were issued by the said Security Warehousing Company, covering goods of the Racine Knitting Company as therein described, at the instance of the said Racine Knitting Company;—also that the receipts numbered and dated and purporting to cover the goods as set forth and described in said petition, were endorsed and delivered by said Racine Knitting Company to W. B. McKeand of Chicago, Illinois, and to the L. C. Hyde and Brittan Bank of Beloit, Wis., as collateral to the notes of said Racine Knitting Company, and are now held by them as collateral to said notes, and that the notes of the L. C. Hyde and Brittan Bank are wholly unpaid. As to the notes alleged to be held by the said W. B. McKeand, the receivers are informed and believe and therefore cvharge the fact to be, that the said W. B. McKeand is a note broker residing in the city of Chicago aforesaid, and that a large number of the notes of the said Racine Knitting Company amounting all told to the sum of $55,652.04, were made and delivered to the said W. B. McKeand for the purpose of being negotiated and disposed of by him for account of said Racine Knitting Co., and that of said amount of notes so entrusted to said W. B. McKeand for said purpose, he the said W. B. McKeand has either returned or accounted for the proceeds to said Racine Knitting Company of $43271.75, and no more, leaving chargeable to said W. B. McKeand and unaccounted for by him, notes or the proceeds thereof to the amount of $12380.29, wherefore said receivers allege and charge the fact to be that the $8800. of notes alleged in said petition to be now held by said W. B. McKeand are without consideration and void; that nothing is due thereon from said Racine Knitting Company to the said W. B. McKeand, or if in fact any consideration was received by said Racine Knitting Company for the particular notes referred to in said petition then that said Racine Knitting Company and the said receivers are entitled

to offset against the same, the proceeds of said $12380.29 of notes delivered to and unaccounted for by said W. B. McKeand, for which reasons even if the storage receipts mentioned in said petition and held by the said W. B. McKeand were legal and valid warehouse receipts, the said W. B. McKeand has no right or title to or lien upon the goods and merchandise described therein.

3. That said receivers are informed and believe, and therefore charge the fact to be that all the pretended warehouse receipts set forth or described in said petition were issued pursuant to certain agreements or contracts between said Security Warehousing Company and the said Racine Knitting Company, which contracts are in the exclusive possession of said Security Warehousing Company, so that the receivers have been unable to obtain copies thereof to be annexed to this answer, but the substance, purpose and effect of which was and was intended to be to enable said Racine Knitting Company to effect secret liens upon its own goods, while stored upon its own premises, contrary to and in clear and palpable evasion of the laws of the State of Wisconsin in relating to chattel mortgages and the sale, transfer and pledge of personal property, and therefore in fraud of the general creditors of said Racine Knitting Company; that pursuant to and as a part of such unlawful and fraudulent scheme and agreement, leases in form were
31 made by said Racine Knitting Company to said Security Warehousing Company, of portions of the premises of said Racine Knitting Company as described in said petition, which portions of said premises were appropriated and designed, and had been used by said Racine Knitting Company for the storage of its own goods, and the receipts in question were issued from time to time covering goods contained in said leased premises, but said premises were not at any time, as alleged, in the open, visible and notorious possession of said Security Warehousing Company, on the contrary such pretended leases thereof and the alleged occupancy thereunder and alleged possession of the goods therein were merely colorable and nominal, and said goods described in such pretended warehouse receipts were in reality at all times stored by said Racine Knitting Company upon its own premises, and at its own cost and expense; that such alleged storage receipts were designed and intended by the parties thereto and were by them issued and received respectively for the purpose of enabling said Racine Knitting Company by the use, transfer and negotiation thereof, and without recording or filing the same, and without actual change of possession of the property covered by said receipts, to effect secret liens upon said

property, and thereby to deceive, injure and defraud general creditors of said Racine Knitting company, wherefore the said receivers allege and charge the fact to be, that said receipts are in no proper sense warehouse receipts, but were and are fraudulent and void, as to the creditors aforesaid, and as to the said receivers, who are the legal representatives of said creditors.

4. That when said receivers were appointed by this Court, they took possession of the property and assets of said Racine Knitting Company so far as they have been able, as commanded by the Court, and as under such appointment it was their duty to do; that the goods in question were found by them upon the premises owned or occupied by said Racine Knitting Company, and along with other goods of said company there found by them, came into their possession and are now held by them as such receivers, and the receivers are informed and believe, and so charge the fact to be that
32 such goods are the property and estate of said Racine Knitting
Company, and rightfully in the possession and subject to the authority and control of such receivers, and liable to the general creditors of said Company.

5. The Receivers further allege upon information and belief that said W. B. McKeand and the L. C. Hyde and Brittan Bank, alleged holders of said pretended warehouse receipts had notice or knowledge at the time of taking said receipts in question of the true character of the same, and of the manner of doing business of said Security Warehousing Company, and that the said receipts were fraudulent as to creditors, and if they did not have actual knowledge of such facts they were chargeable by law with notice thereof, and that such receipts were fraudulent and void.

Wherefore, the said Elbert B. Hand and Andrew Dietrich, receivers as aforesaid, pray that said petition may be denied, and that they may have such other or further relief in the premises as to the Court shall seem just and proper.

Dated, November 21, A. D. 1903.

COOPER SIMMONS NELSON & WALKER
Attorneys for said Receivers.

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State of Wisconsin
Racine County } ss.

Elbert B. Hand and Andrew Dietrich, being each duly sworn on oath, each himself on oath says that they are receivers of the Racine Knitting Company, the above named bankrupt, and that they have read and know the contents of the foregoing answer to the petition of the Security Warehousing Co heretofore filed in the above entitled matter, and that the same is true of their own knowledge, except as to the matters therein stated on information and belief, and as to those matters they believe it to be true.

(Signed) Elbert B. Hand,
" Andrew Dietrich

Subscribed and sworn to before me this 23 day of November, A. D. 1903.

Peter B. Nelson,
Notary Public, Wis.

(Seal)

33 ANSWER OF RECEIVERS TO PETITION OF L. C. HYDE & BRITTAN BANK.

United States of America
Eastern District of Wisconsin, } ss;

In the District Court of the United States

In And For Said District.

In The Matter Of The
Racine Knitting Company,
Bankrupt. } In Bankruptcy.

Now come Elbert B. Hand and Andrew Dietrich, receivers of the Racine Knitting Company, by Cooper, Simmons, Nelson & Walker, their attorneys, and in answer to the petition to the L. C. Hyde and Brittan Bank, and for cause why said petition should not be granted, respectfully show unto the court:

1. That they admit certain paper writings of one of which "Exhibit A" attached to said petition is a copy, and of which the others were similar in form except as to date and number, quantity and character of property stored and location of premises, were issued by the Security Warehousing Company, covering goods of the

Racine Knitting Company, as therein described, at the instance of said Racine Knitting Company the above named bankrupt; that said petitioner is the holder of promissory notes of said Racine Knitting Company to the amount of $5300. as charged in said petition, which notes represent money loaned to said bankrupt in the regular course of business; and that said paper writings in the form of storage receipts were deposited with said petitioner by said Racine Knitting Company as collateral security for said notes and are still held by said petitioner collateral thereto; also that said notes are wholly unpaid.

2. That they are informed and believe, and therefore charge the fact to be, that the Security Warehousing Company, by whom the receipts in question were issued, is not and at the times of issuing the same was not a warehouseman in the legal sense of the term and is not now and was not then in good faith, carrying on
34 business as such; that it has not and never had any warehouse for
the reception and storage of goods, merchandise or other personal property, but its business has at all times consisted in and been confined to the issuing of storage receipts, so-called, for goods remaining and intended to remain upon the premises of the original owner; that said receipts issued by the said Security Warehousing Company and referred to in said petition are not in any sense warehouse receipts, but were issued pursuant to an agreement or contract between said Security Warehousing Company and said Racine Knitting Company, which contract is in the sole possession of said Security Warehousing Company, and of which the receivers have been unable to obtain a copy to be annexed to this answer, but the substance, purpose and effect of which was and was intended to be, to enable said Racine Knitting Company to effect secret liens upon its own goods while stored upon its own premises in violation or palpable evasion of the laws of the State of Wisconsin relating to chattel mortgages and the sale, transfer and pledge of personal property and therefore in fraud of the creditors of said Racine Knitting Company; that pursuant to and as a part of such unlawful and fraudulent scheme and agreement pretended leases were made to said Security Warehousing Company as alleged in said petition, of portions of the premises of said Racine Knitting Company, which portions of said premises were appropriated and designed and had been used by said Racine Knitting Company for storage of its own goods, and said receipts were issued from time to time covering goods contained in said leased premises, but said premises were not at any time in the open, notorious and visible possession of said Security Warehousing Company, but such pretended leases thereof

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and the alleged occupancy thereunder and alleged possession of the goods therein were merely colorable and nominal, and said goods described in such alleged storage receipts were in reality at all times stored by said Racine Knitting Company upon its own prem-
35 ises and at its own cost and expense; that such alleged storage receipts were designed and intended by the parties thereto, and were by them issued and received respectively, for the purpose of enabling said Racine Knitting Company by the use, transfer and negotiation thereof, and without recording or filing the same, and without actual change of possession of the property covered by the same, to effect secret liens upon said property, and thereby to deceive and defraud the creditors of said Racine Knitting Company, wherefore the said receivers allege and charge the fact to be that said receipts are fraudulent and void as to the creditors aforesaid, and as to them as the representatives of such creditors.

3. That when said receivers were appointed by this court, they took possession of the property and assets of said Racine Knitting Company, so far as they have been able, as commanded by the Court and as under such appointment it was their duty to do; that the goods in question were found by them upon the premises owned or occupied by said Racine Knitting Company, and along with other goods of said Company there found by them, came into their posession and are now held by them as such receivers, and the receivers are informed and verily believe, and so charge the fact to be, that said goods are the property and estate of said Racine Knitting Company and rightfully in the possession and subject to the authority and control of said receivers and liable to the claims of the general creditors of said Company.

4. The receivers further allege upon information and belief that said petitioner had notice or knowledge at the time of taking said receipts in question, of the true character of the same, and of the manner of doing business by said Security Warehousing Company, and that the said receipts were fraudulent as to creditors, and if said petitioner did not have actual knowledge of said facts, it was chargeable by law with notice thereof, and that said receipts were fraudulent and void.

36 Wherefore, the said Elbert B. Hand and Andrew Dietrich, receivers as aforesaid pray that said petition may be denied, and that they may have such other or further relief in the premises, as to the court shall seem just and proper.

COOPER, SIMMONS, NELSON & WALKER.
Attorneys for said Receivers.

Dated November 21, A. D. 1903.

State of Wisconsin, } ss:
Racine County. }

Elbert B. Hand and Andrew Dietrich, being each first duly sworn on oath, each for himself on oath says that they are receivers of the Racine Knitting Company, the above named bankrupt, and that they have read and know the contents of the foregoing answer to the petition of the L. C. Hyde and Brittan Bank heretofore filed in the above entitled matter, and that the same is true of their own knowledge, except as to the matters therein stated on information and belief, and as to those matters they believe it to be true.

(Signed) Elbert B. Hand,
" Andrew Dietrich.

Subscribed and sworn to before me this 23 day of November, A. D. 1903.

Peter B. Nelson,
(Seal) *Notary Public, Wis.*

37 ANSWER OF RECEIVERS TO PETITION OF W. B. McKEAND.

United States District Court

For the Eastern District of Wisconsin.

In The Matter Of The Racine Knitting Company, Bankrupt. } In Bankruptcy.

Now come Elbert B. Hand and Andrew Dietrich, receivers of the Racine Knitting Company, by Cooper, Simmons, Nelson and Walker their attorneys, and answering to the petition of W. B. McKeand heretofore filed in said Court, for cause why said petition should not be granted, respectfully show unto the Court:—

1. That they admit certain paper writings, of one of which "Exhibit A." attached to said petition is a copy, and of which the others were similar in form except as to dates and numbers, quantity and character of goods stored, and location of premises, were issued by the Security Warehousing Company, at the instance of the Racine Knitting Company the above named bankrupt, covering goods of said Racine Knitting Company as therein described;—that said

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Racine Knitting Company made and delivered to said W. B. McKeand the notes amounting to $8,800 described in said petition, and indorsed and delivered to him as collateral security therefor the instruments or writings referred to in said petition as warehouse receipts, and that said notes and receipts are still held by him. In respect to the said notes, the receivers are informed and believe and so charge the fact to be, that the said W. B. McKeand is a note broker residing in the city of Chicago, Illinois, and that a large number of the notes of the said Racine Knitting Company amounting all told to the sum of $55,652.04, were made and delivered to the said W. B. McKeand for the purpose of being negotiated and disposed of by him for the account of the said Racine Knitting Company, and that of said amount of notes so entrusted to said W. B. McKeand for said purpose, he the said W. B. McKeand has either returned or accounted to said Racine Knitting Company for the proceeds of $43,271.75 and no more, leaving chargeable to said
38 W. B. McKeand and unaccounted for by him notes or the proceeds of notes to the amount of $12,380.29 which are now outstanding against said Company and are held or have been sold and the proceeds received by him, wherefore the said receivers allege and charge the fact to be, that the $8,800 of notes alleged in said petition to be now held by said W. B. McKeand and unpaid, are without consideration and void, and that nothing is due thereon from said Racine Knitting Company to said W. B. McKeand; or if in fact any consideration was received by the said Racine Knitting Company for the particular notes referred to in said petition, no description of which is therein given, then the said Racine Knitting Company and its receivers are entitled to set off against the same, the proceeds of said $12,380.29 of notes delivered to and unaccounted for by said W. B. McKeand, for which reasons, even if the said pretended warehouse receipts mentioned in said petition were proper and valid warehouse receipts, the said W. B. McKeand has no right or title to or lien upon the goods and merchandise described therein.

2. That they are informed and believe and therefore charge the fact to be, that the Security Warehousing Company by whom the receipts in question were issued, is not and at the times of issuing the same was not a warehouseman in the legal sense of the term and is not nor was not then in good faith nor in fact carrying on business as such;—that it has not and never had any warehouse for the reception or storage of goods, merchandise or other personal property, but its business has at all said times consisted in and been confined to the issuing of so-called storage receipts, for goods remaining

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and intended to remain upon the premises of the original owner, which receipts might be and were intended to be used as collateral security and by means whereof such original owner, without the filing or recording of any paper or instrument in a public registry office, indicating a charge, lien or incumbrance against the property, and without any actual change of possession of such property, might be enabled to create secret liens thereon,—which business as so carried on by said Security Warehousing Company, was and is
39 contrary to public policy and essentially violative of the laws of the State of Wisconsin relating to the sale, pledge and mortgaging of personal property;—that the receipts referred to in said petition and now held by said petitioner are not in any sense warehouse receipts, but were issued pursuant to certain contracts or agreements between said Security Warehousing Company and said Racine Knitting Company, which contracts are in the exclusive possession of said Security Warehousing Company so that the receivers have been unable to obtain copies thereof to be annexed to this answer, but the purport, purpose and effect of which was and was intended to be, to enable said Racine Knitting Company to effect secret liens upon its goods while stored upon its own premises, contrary to and in clear and palpable evasion of the laws of the State of Wisconsin relating to chattel mortgages and the sale, transfer and pledge of personal property, and therefore in fraud of the general creditors of said Racine Knitting Company;—that pursuant to and as a part of such unlawful and fraudulent scheme and agreement, pretended leases were made to said Security Warehousing Company as alleged in said petition, of portions of the premises of the said Racine Knitting Company, which portions of said premises were appropriated and designed and had been used by said Racine Knitting Company for the storage of its own goods, and the receipts in question were issued from time to time covering goods contained in said leased premises, but said premises were not nor were said goods at any time in the open, visible and notorious possession of said Security Warehousing Company, but such pretended leases of said Knitting Company's premises and the alleged occupancy thereunder and the alleged possession of the goods therein were merely colorable and nominal, and said goods described in said so-called warehouse receipts were in reality at all times stored by said Racine Knitting Company upon its own premises and at its own cost and charges, and that said alleged warehouse receipts were designed and intended by the parties thereto, and were by then issued and received respectively, for the purpose of enabling said Racine Knitting Company by the use, transfer and negotiation thereof, and without recording or filing

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the same, and without actual change of possession of the property covered by such receipts, to effect secret liens upon said property, and thereby to deceive, injure and defraud the general creditors of said Racine Knitting Company;—wherefore the said receivers allege and charge the fact to be, that said receipts are in no proper sense of the words "warehouse receipts", but were and are fraudulent and void as to the creditors aforesaid and void also as to the said receivers who are the legal representatives of said creditors.

3. That when said receivers were appointed by this Court, they took possession of the property and assets of said Racine Knitting Company, so far as they have been able, as commanded by the Court and as under such appointment it was their duty to do;—that the goods in question were found by them upon the premises owned or occupied by the said Racine Knitting Company, and along with other goods there found by them, came into the possession of and are now held by said receivers;—and that they are informed and believe and so charge the fact to be, that said goods are the property of said Racine Knitting Company and rightfully in the possession and subject to the authority and control of said receivers, and liable to the claims of the general creditors of said Company.

4. The receivers further allege, upon information and belief, that said petitioner W. B. McKeand was an officer of said Racine Knitting Company and had notice and full knowledge, at the time of taking the receipts in question, of the true character of the same and of the manner of doing business of said Security Warehousing Company, and that the said receipts were fraudulent as to creditors, and if said petitioner did not have full knowledge of said facts, he was chargeable by law with notice thereof and that said receipts were fraudulent and void.

Wherefore the said Elbert B. Hand and Andrew Dietrich receivers as aforesaid, pray that said petition may be denied, and that they may yhave such other or further relief in the premises, as to the Court shall seem just and proper.

COOPER. SIMMONS NELSON & WALKER
Attorneys for Receivers.

Dated Nov. 21, 1903.

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41 State of Wisconsin, }
Racine County. } ss.

Elbert B. Hand and Andrew Dietrich being each duly sworn, each for himself on oath says, that he is one of the receivers of the Racine Knitting Company, the above named bankrupt,—that he has read and knows the contents of the foregoing answer,—and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

(Signed) Elbert B. Hand
" Andrew Dietrich

Subscribed and sworn to before me this 23 day of November, A. D. 1903.

Peter B. Nelson,
(Seal) *Notary Public, Racine County, Wis.*

24 February 6, 1904. Answer of Citizens Bank of Mukwonago by its attorneys to petitions of the trustees for an order of sale filed as follows:

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wonago,
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In the District Court of the United States

For the Eastern District of Wisconsin.

In the Matter of Racine Knitting Company, Bankrupt. } In Bankruptcy.

Now comes the Citizens Bank of Mukwonago, State of Wisconsin, and appearing by Messrs. Ryan, Merton & Newbury, its attorneys, and answering the petition of the trustees in the above matter respectfully shows to the court and states:

1. The Citizens Bank of Mukwonago, State of Wisconsin, denies that the trustees in said bankruptcy proceedings are in the lawful and rightful possession of the property mentioned and described therein, or that this court has jurisdiction in this matter. Further answering said petition said Bank alleges that it holds five (5) guaranteed warehouse receipts issued by the Security Warehousing Company, (a corporation authorized to do business within the State of Wisconsin) upon certain specified parts of the property mentioned and described in said petition, and which were duly indorsed by the bankrupt and delivered to the Citizens Bank of Mukwonago, Wis-

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consin, as collateral security for the payment of moneys loaned and advanced to the bankrupt by said Bank, in good faith, and that the property covered thereby was and ought now to be in the full possession and control of the said Security Warehousing Company for the benefit of the holders of said receipts, and is not in the lawful or rightful possession of the trustees herein. That the Citizens Bank of Mukwonago alleges upon information and belief that the trustees herein have taken possession of said property described in said five warehouse receipts unlawfully and wrongfully.

43 II. That the Citizens Bank of Mukwonago, State of Wisconsin, is a banking corporation, duly incorporated and existing under and by virtue of the laws of the State of Wisconsin, and that it does a general banking business, and is authorized to buy and sell notes and discount notes, and make loans, under its articles of incorporation; that its principal office and place of business is in the Village of Mukwonago, County of Waukesha, and State of Wisconsin.

III. On information and belief it further alleges that the Security Warehousing Company, doing business in the Rookery Building 271 La Salle Street, in the City of Chicago, and State of Illinois, is a corporation duly organized and existing under and by virtue of the laws of the State of New York, and that its principal office is in the City of New York, but that it also has an office in the City of Chicago, above referred to, and that it is authorized and empowered by virtue of its incorporation to issue warehouse receipts as provided by law; and that said Security Warehousing Company also has a warehouse at the City of Stevens Point, in the State of Wisconsin, and that said Security Warehousing Company has duly filed a copy of its articles of incorporation in the Office of the Secretary of State at Madison, Wisconsin, and has been duly licensed to do business in the States of Illinois and Wisconsin; that it received from the bankrupt, Racine Knitting Company, about January 26th, 1903, a large amount of manufactured goods, and which are called in the petition herein "manifest goods", and stored the same in its warehouse at the City of Stevens Point, in the State of Wisconsin, and issued thereon a number of warehouse receipts and delivered the same to the Racine Knitting Company, the above named bankrupt.

44 IV. Said Citizens Bank of Mukwonago further alleges upon information and belief that on or about the 8th day of April, A. D. 1903, the said Racine Knitting Company, said bankrupt, duly made and executed its certain promissory note for $2,000.00, with interest thereon at the rate of seven per cent. per annum after ma-

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turity, and that it sold and transferred said note to W. B. McKeand & Company at Chicago, Illinois, and received therefor said sum of $2,000.00; and that in order to secure said promissory note of $2,000.00 it delivered to said McKeand & Company, at the same time, as collateral security thereto, five certain guaranteed warehouse receipts issued by said Security Warehousing Company, and which are numbered 3421, 3422, 3423, 3424 and 3425.

That by warehouse receipt Number 3421 it conveyed Two (2) Cases Nos. 23 and 24, said to contain not less than Three Hundred Seventeen (17) Men's Assorted Union Suits and drawers, and be as per Manifest herewith designated as Exhibit "416-A", to be known as Lot No. 416, and stored on Main Floor of Iron-Clad Warehouse, Stevens Point, Wisconsin.

That by warehouse receipt Number 3422 it conveyed One (1) Case, No. 25, said to contain not less than One Hundred Sixty (160) Men's Assorted Shirts, Drawers and Union Suits, and be as per Manifest herewith designated at Exhibit "417-A", to be known as Lot No. 417, and stored on Main Floor of Iron-clad Warehouse, Stevens Point, Wisconsin.

That by warehouse receipt Number 3423 it conveyed One (1) Case, No. 26, said to contain not less than One Hundred Eighty-five Pieces Ladies', Men's and Children's Assorted Underwear, and be as per Manifest herewith designated as Exhibit "418-A" to be known as Lot No. 418, and stored on Main Floor of Iron-Clad Warehouse, Stevens Point, Wisconsin.

That by warehouse receipt Number 3424 it conveyed One (1) case, No. 27, said to contain not less than Two Hundred (200) Ladies' Assorted Union Suits and Vests, and be as per Manifest herewith designated as Exhibit "419-A", to be known as Lot No. 419, and stored on Main Floor of Iron-clad Warehouse, Stevens Point, Wisconsin.

That by warehouse receipt Number 3425 it conveyed One (1) Case, No. 28, said to contain not less than One Hundred Sixty-four (164) Pieces Assorted Underwear, and be as per Manifest herewith designated as Exhibit "420-A", to be known as Lot No. 420, and stored on Main Floor of Iron-clad Warehouse, Stevens Point, Wisconsin.

And that said Security Warehousing Company's receipts show the amount of goods upon which the same were issued, and the description thereof, and where located; that some time afterwards, to-wit, April 18th, 1903, and in the usual course of business said promissory note of $2,000.00 was sold, assigned and delivered to the Citizens Bank of Mukwonago, Wisconsin, and that said Citizens

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Bank of Mukwonago paid a valuable consideration therefor, and that when said note was transferred to it there was also transferred, as collateral security, the said five guaranteed warehouse receipts, and that they were so delivered before the maturity of said note; and that said note and said warehouse receipts, as collateral security, were received by the Citizens Bank of Mukwonago in good faith and for which it paid a valuable consideration; and that it purchased said note upon the reliance of said guaranteed warehouse receipts as security therefor, and that it would not have pur-
46 chased if it had not been that said guaranteed warehouse re-
ceipts were put up by said Racine Knitting Company as security for the said note when the same was made, executed, sold and delivered; that on or about the 8th day of August 1903, when said note became due and payable, and when said Citizens Bank of Mukwonago demanded payment therefor said Racine Knitting Company applied to said Citizens Bank for a renewal of said note and stated that if said Citizens Bank would do so it could retain the said security already held by it, to-wit, said five Security Warehousing Company's receipts; and that thereupon it was agreed between said Racine Knitting Company and said Citizens Bank of Mukwonago, Wisconsin, to have said note renewed for four months from the 8th day of August 1903, and that said five guaranteed warehouse receipts, hereinbefore referred to, were retained by said Citizens Bank of Mukwonago as collateral Security for the payment of said renewal note; and that on the renewal of said note no security was taken from said Racine Knitting Company within four months of the adjudication in bankruptcy herein, other than the warehouse receipts pledged as security for the original note.

Wherefore The Citizens Bank of Mukwonago, Wisconsin, prays that this court may dismiss the petition of the trustees herein so far as it relates to the property covered by the five guaranteed warehouse receipts, hereinbefore referred to, and that the said trustees be restrained from interfering with said property or selling the same, and that they be ordered to deliver the property mentioned in the said five guaranteed warehouse receipts to the "Security Warehousing Company" so as to enable it to deliver the same to said Citizens Bank of Mukwonago, Wisconsin, and that this be done
47 in order that said Citizens Bank may enforce its demand against
said "Security Warehousing Company" as provided by law; and for such other order and relief as may be just and equitable.

Ryan, Merton & Newbury,
Attorneys for Citizens Bank of Mukwonago, Wisconsin.

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State of Wisconsin,
County of Waukesha, } ss.

J. N. Crawford, being first duly sworn on oath, deposes and says: That he is President of the Citizens Bank of Mukwonago, and as such is authorized to make this verification in its behalf; that he has heard read the foregoing answer and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters therein stated upon information and belief and as to those matters he believes it to be true.

J. N. Crawford, (Seal).

Subscribed and sworn to before me this 2nd day of February 1904.

Perry P. Camp,
Notary Public, Waukesha County, Wisconsin.

My commission expires Dec. 1st, 1907.

erence. 1904.

48 ORDER OF REFERENCE OF SAID PETITIONS.

United States District Court,

Eastern District of Wisconsin.

In the Matter of the Racine Knitting Company, Bankrupt. } In Bankruptcy.

February 5, 1904.

Ordered by the Court that the petitions of W. B. McKeand, The L. C. Hyde & Brittan Bank and The Security Warehousing Company be referred to Charles H. Lee, Referee herein, to take the testimony upon the same, and report with his findings thereon; and further to take such action as he may be advised in reference to sale of the property mentioned in said petitions, either exempting the same from present sale, if deemed necessary for preservation of all rights, or providing for sparate sale thereof and retaining the proceeds to abide the order of the court.

(Signed) Wm. H. Seaman,
Judge.

49 TESTIMONY TAKEN BEFORE SPECIAL MASTER.

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IN THE UNITED STATES DISTRICT COURT

Eastern District of Wisconsin.

In the Matter of the Racine Knitting Company, Bankrupt. } In Bankruptcy.

Hearing on Special Order of Reference from Hon. W. H. Seaman, Judge to the Referee herein, Mr. Charles H. Lee, to take testimony and report findings upon petitions of W. B. McKeand, Hyde & Brittan Bank, and Security Warehousing Company, and such action as the Referee may be advised with reference to the sale of the property mentioned in the said petitions, the same being heard commencing February 11th, 1904 at the office of the said Referee, Room 12, Baker Block, Racine, Wisconsin.

Appearances:

Mr. John B. Simmons for the Trustees and Receivers and the Trustees and Receivers in person.
Mr. W. D. Thompson for Bankrupt
Mr. E. Merton, for the Citizens Bank of Mukwonago.
Mr. Henry S. Robbins for Security Warehousing Company, the petitioners.

Mr. Robbins: The Petitioner offers in evidence the original lease between Security Warehousing Company and the Racine Knitting Company dated October 15, 1901 of premises at Racone, with leave to substitute copy for the original offered.

Exhibit

Same received and marked Exhibit "A"

Petitioners offer in evidence storage receipt of the Security Warehousing Company #3244 issued December 1st, 1902 to Racine Knitting Company, with leave to substitute copy.

Same received and marked Exhibit "B"

50 Mr. Simmons: We object to it as immaterial, irrelevant, and incompetent, and object specially on the ground that it has not been shown that the Security Warehousing Company by whom same was issued is a warehouseman within the legal acceptation of the term authorized to issue receipts of that character. We also object to it further on the ground that upon its face it refers to a certain contract which appears to enter into and form a part of the instrument, and that it is not admissible in evidence without the production of contract referred to.

We may assume for the present at least that those are correct Mr. Robbins, subject to verification.

Mr. Robbins: It Is Stipulated by the parties that the Security Warehousing Company at the dates mentioned in the second paragraph of its petition issued twelve documents in the form of Exhibit "B", except and differing therefrom only in dates, numbers and quantity and quality of property so stored, said documents being numbered and dated respectively as in said clause of said petition set out and covering respectively the articles of merchandise in said clause respectively mentioned.

Mr. Simmons: Subject to verification and correction, and also with the understanding that insofar as they were offered here that they are subject to the same objection as the other receipt.

Referee: All of said documents received subject to the foregoing objection.

Petitioners offer in evidence Lease from Racine Knitting Company to Security Warehousing Company dated January 24th, 1903 of premises at Stevens Point, Wisconsin/ with privilege of substituting copy.

Received and marked Exhibit "C"

51 Same stipulation and Objection as to the Racine Receipts except that the number of the warehouse receipt is given as inserted, Number 235, and after the word "located" in the warehouse receipts there is inserted in these twelve warehouse receipts the word at "Stevens Point, Wis." (on main floor of iron clad warehouse)

And after the words "Racine Knitting Company" in these Warehouse receipts, is inserted the words "Stevens Point, Wis."

Stipulation is agreed to subject to the right of verification and correction.

All received subject to objection, as in foregoing stipulation.

Petitioner offered in evidence the Agreement, Oct. 15, 1901 between Racine Knitting Company and Security Warehousing Company with leave to withdraw original and substitute copy.

Received and marked Exhibit "D"

It is admitted by the parties that the contract just offered in evidence is the contract referred to in Exhibit "B" and other warehouse receipts of similar tenor by the words "as per contract".

Mr. Robbins: I offer in evidence four notes signed by the Racine Knitting Company in the following form:

Notes received in evidence and marked Exhibit's E1, E2, E3, E4.

Mr. Simmons: We desire to object to these as immaterial, irrelevant and incompetent, and further and specially for the reasons that the warehouse receipts or the collateral referred to is in-

52 valid, and for the reasons stated in the Answer of the Trustees or Receivers, and that it has not been shown that the Security Warehousing Company by which said receipts were issued is a warehouse in the legal acceptation of that term.

Offer

It is admitted that no part of the above described aforesaid notes have been paid, and that the L. C. Hyde and Brittan Bank of Beloit is the present owner and holder.

Exhibit received subject to the foregoing objection.

It is further admitted that the warrant number (giving number) of the Security Warehousing Company in each of said notes refers to the storage receipts of the Security Warehousing Company of that number heretofore introduced in evidence, and that the exhibit number in each of said notes refers to the exhibit number mentioned in each of said numbered receipts, and that each of said warrants was delivered to the L. C. Hyde and Brittan Bank at the time of the execution of the note referring to it, and is still in the possession of said Bank which claims to hold the same on the property mentioned therein as security for said notes.

Mr. Merton: The Citizens Bank of Mukwonago offers in evidence note for Two Thousand Dollars ($2000.) dated August 8th, 1903 signed by Racine Knitting Company, four months after date, with leave to substitute copy.

Received and marked Exhibit "F"

Mr. Simons: Same objection interposed as to the notes of The L. C. Hyde and Brittan Bank, and on the further ground that the note now offered in evidence by the Citizens Bank of Mukwonago is the identical same note referred to in the petition of W. B.

53 McKeand here of which he claims to be the owner as well as of the warehouse receipt referred to therein.

It Is Stipulated that this note is endorsed on the back by the Racine Knitting Company and delievered about the date of its date, and that the warrants of the security Warhouse Company referred to in said note are the same warrants to that fact of those numbers which are already introduced in evidence here and that said note was given by said Knitting Company to said Bank about the 8th of August, 1903 in renewal of a note for a like amount signed by said Knitting Company and maturing on the 8th of August, 1903.

That said original note was in the same form as said Exhibit "F" and was delivered to said Bank on or about the 18th day of April, 1903, together with the warehouse warrants referred to in said Exhibit "F".

That no part of Exhibit "F" has been paid, and that said Bank is still the owner and holder thereof, and also of the warrants mentioned therein, and claims in this proceeding a lien upon or right to recover the property mentioned in said warrants.

Taken subject to right of verification and correction and also subject to same objection.

Mr. Robbins: I offer in evidence a note dated June 23rd, 1903 for Two Thousand Dollars and ask that the original be withdrawn, including endorsement of the Racine Knitting Company on the back. Privilege to substitute a copy.

Also note of Nineteen Hundred Dollars ($1900.) dated August 10, 1903, with same right to withdraw.

54 Also note of Nineteen Hundred Dollars ($1900.) dated August 10, 1903, with privilege to substitute copy.

Also note of One Thousand Dollars ($1000.) dated August 21, 1903, with privilege to substitute copy.

And also the endorsements on the back of each of such notes.

Received and marked Exhibits G1, G2, G3, and G4.

The identity of the storage warrants mentioned by number in the notes, with the storage warrants of the same number introduced in evidence in this case is admitted.

Subject to objection as heretofore.

Mr. Robbins: I offer in evidence manifest of goods in warehouse forms of Security Warehousing Company, Number 134 with leave to substitute copy.

Received and marked Exhibits "H"

It Is Stipulated that the document just introduced in evidence, Exhibit "H" is a document referred to in Exhibit "B" as Exhibit A-235 and that manifests similar in character were issued with the other receipts offered in evidence.

Subject to the same objection as the competency of the fact.

Plan of premises at Stevens Point leased from and part of the plant of Racine Knitting Company marked Number 235 offered in evidence and marked Exhibit "I"

It Is Admitted that Exhibit "I" is a substantially correct diagram showing the manufacturing plant of the Racine Knitting Company at Stevens Point, Wisconsin, and that the space marked
55 "store room" thereon correctly represents the one story iron clad warehouse referred to in Exhibit "C" and that the part thereof marked "S. W. Co. Prem. No. 235" correctly indicates the portion of said premises of said Warehouse covered by Exhibit "C"

56 Testimony ordered taken by Question and Answer.

P. P. CAMP being duly Sworn on oath, testified as follows:

Testimon
P. P. C

Examined by Mr. Merton.

Q. You are the Cashier of the Citizens Bank of Mukwonago? A. I am.

Q. And that is a state bank? A. It is.

Q. I now show you Exhibit "F" Mr. Camp, now that exhibit, that note of the Racine Knitting Company, that is a renewal note? A. Yes sir.

Q. Of a note of the same amount which you held before that? A. Yes sir.

Q. What date did you get that first note? A. 18th day of April, 1903.

Q. Now that first note you purchased of whom? A. W. B. McKeand and Company of Chicago.

Q. And did you purchase that in the usual course of business? A. Yes sir.

Q. And what did you pay for it? A. Paid Two Thousand Dollars, less the discount, the regular discount.

Q. The usual discount? A. Yes sir.

Q. And did you have collateral security with that first note? A. We did.

Q. I show you five receipts purporting to be guaranty Warehouse receipts commencing Number 3421 to 3425 inclusive, and ask you whether those are the collaterals you got to that first note? A. Yes they are.

Q. And when you took this here renewal note you obtained the same securities? A. Yes.

Q. That first note became due about the time when this renewal note was given? A. Yes the 8th day of August.

57 Q. Now Mr. Camp did you pay this Two Thousand Dollars for that note upon the strength of these five warehouse receipts?

Mr. Simons: Objected to.

Referee: He may answer.

A. Yes, we wouldn't have taken the note without those as security.

Q. And did you take these to be warehouse receipts bona fidely issued? A. Certainly we did.

Mr. Simmons: Same objection.

Q. Now did you rely entirely on those receipts as to the goods therein mentioned for your security?

Same objection.

A. Yes.

of amp.

Q. And did you know there was any difficulty about those matters as to their not being properly issued?

Same objection.

Q. At that time I mean? A. No, if we had we wouldn't have taken them.

Q. You yourself, nor anyone in your bank ever was at Stevens Point about this matter were you? A. No.

Q. And you believe that the Security Warehouse Company had these goods mentioned in these receipts in their warehose at Stevens Point, Wisconsin? A. I believed so.

Q. That is what you relied on? A. That is what we relied on.

Examined by Mr. Robbins.

Q. When you took those receipts as security did you or your bank know anything of the warehousing company not having possession, or having defective possession? A. No sir.

Same objection.

Q. The receipts recite that the storage company was in possession and had received in storage the property mentioned, did you know anything to the contrary? A. I did not.

58 Same objection.

Q. What was your impression about that at the time you took the receipt for security?

Same objection.

A. We took some pains to look up the standing of the Security Warehousing Company, and under such evidence as we could gather, we thought that they were all right, and concluded that was ample security.

Question repeated.

A. We had no doubt of their being in possession of the storage warehousing company.

Q. Or knew nothing to the contrary? A. We did not.

Counsel for Receivers and Trustees objected in due time and form to all the testimony of this witness relating to the so-called warehouse receipts and his understanding as to the possession of the property as incompetent and immaterial.

Cross-Examination by Mr. Simmons.

Q. Mr. Camp you stated that you bought this original note paying for it the sum of Two Thousand Dollars less the usual discount, what was the usual discount, or in other words what was it you paid for this note exactly in amount? A. I wouldn't undertake to say whether 6½ or 7% discount, it was either one or the other.

Testimony P. P. C

Q. By that you mean that you paid Two Thousand Dollars less 6½ or 7%? A. Yes by the time 6½ orb 7% per annume for the time the note was to run.

Q. The original note was drawn like this, with interest payable after maturity was it? A. It was.

Q. Did you purchase the note from McKeand personally or by correspondence? A. By correspondence.

59 Q. Did you have any interview with Mr. McKeand personally obout it? A. I did not.

Q. Did you inquire from Mr. McKeand about the Security Warehousing Company? A. At the time of Mr. McKeand's offering the note for sale he stated that it was secured by these warehouse receipts, and that they were fully ample to pay the face value.

Q. You hav'ent answered my question yet. I asked you if you inquired of Mr. McKeand about this Security Warehousing Company? A. No we did not.

Q. Did you inquire of anybody where this alleged warehouse of the Security Company was located? A. We ascertained from the Commercial Agency that they were doing business in Stevens Point with the Racine Knitting Company, that is that they had leased from the Racine Knitting Company.

Q. You understood then that these good were stored on the premises of the Knitting Company under a lease from the Knitting Company, did you? A. That is the way I so understood it.

Q. So that when you saw the reference here to the goods as being located on the main floor of an iron clad warehouse at Stevens Point you understood that that was the warehouse belonging to the Racine Knitting Company? You understood that it was a building which was owned by the Knitting Company and in which it had leased storage space to the Security Company?/ A. Yes sir.

Q. Did you have any correspondence with the Security Company yourself? A. We did not.

Q. And you say noone representing the bank went to Stevens Point to ascertain the manner of storage or the kind of possession which the Security Company had?/ A. No.

60

Re-direct Examination by Mr. Merton.

Q. Mr. Camp if you know, or did'nt you know whether this lease was for the whole of the building or part of the building? Did you know anything about it? A. No I did'nt know anything about that.

Q. Simply knew, as you ascertained from the Commercial Agency that they had leased the premises of the Racine Knitting Company? A. Leased the premises.

Q. That is all you knew about it? A. That is all we knew about it.

Q. And then placed your reliance on the receipts themselves? A. Yes.

ay of
Greene.

E. S. GREENE being duly sworn on oath, testified as follows:

Examined by Mr. Robbins.

Q. What is your full name?/ A. E. S. Greene.

Q. Where do you live?/ A. Beloit, Wisconsin.

Q. What is your business? A. Cashier of the Hyde and Brittan Bank.

Q. Of what place?/ A. Beloit, Wis.

Q. Were you present this morning when your notes signed by the Racine Knitting Company to the order of your bank aggregating Fifty-three Hundred Dollars were introduced in evidence? A. Yes I was.

Q. Are those notes original notes or renewals or prior notes?
A. It is possible that they were renewed, that is in a way.
61 Some of them were loaned the money some time ago. The certificates were changed possibly at the time those notes were
true.

Q. Were you familiar with the making of those loans? A. Yes sir I was.

Q. And participated in it?/ A. Yes.

Q. Had any part of these notes been paid? A. No part of them.

Q. And you still have in possession the storage receipts referred to in these notes?/ A. We have.

Q. Did you receive those storage receipts at the time of the giving of these notes? A. Yes sir, we made the loan, the notes were, I think sent us by mail, and the receipts were signed at the time. I couldn't say that the loan, the notes and the receipts were sent in the same letter but before the loan was made we got our note and got our warehouse receipts or warrants.

Q. What part of these receipts belonged in this loan? A. The whole of it. In a nut shell, Mr. Blake had first before we made any of these loans came out to us and solicited some fund. First

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E. S. G

I think he wrote to us asking us to carry him on the line of discounts on their own notes, which we refused to do, that we did not know the concern, not being located in Beloit to warrant that, was'nt our custom. Always demanded collateral, and the matter was dropped, and later Mr. Herbert Blake came out himself and came in and solicited some funds from us, stating that he would give us collateral security, and he at the same time said that he would give us these warehouse receipts. I think about the line of eighty per cent on a hundred, about twenty per cent margin, and went back. We corresponded with our Chicago correspondents in regard to the Security Warehousing Company to know whether they were good and all about them, and we got very high report on them. We were satisfied from our knowledge in the matter to make the loan,
and the first loan, I think was possibly Fifteen Hundred Dol-
62 lars, I forget now, and we took the Warehouse receipts as col-
lateral. And paid the money out there. Give them credit for the face of the note less six per cent discount from the time the notes run. All discount at six per cent, just as we discounted in first class paper. The Knitting Company checked it out from the pay rolls. This money all went out for the pay rolls.

Q. Is it true that you would not have made the loan but for the pledging of those receipts? A. We would not have made the loan, no question about it.

Q. Now what did you know about this Security Warehouse Company or this property or these receipts at the time you made these loans? A. Did'nt know anything about it any further than we looked up the Warehousing Company, and we looked over the receipts, and concluded that no doubt when we made the loans the receipts were, perfectly good and proper and good security. That is why I made the note.

Q. Did you know anything about the location of the property mentioned in the receipts, other than that disclosed by the receipt? A. Not impossible. Possibly Mr. Brittan did, although I think not. I know I did'nt know in what building they were in or anything. As far as I was concerned certificate recited the fact of the matter and nature of the Security Warehousing Company was in the business, relied entirely on their certificates in the matter.

Q. You mean by certificates warrants? A. Warrants we held as collateral.

Q. Did you at the time you made either of these loans and took these warehouse receipts know or have any notice of any defect in the possession of the storage company? A. Not any.

Q. Or that the Storage Company had insufficiently taken possession of the property? A. We did not.

Q. As far as you know your Bank had no such knowledge? A. So far as our Bank was concerned we had no such knowledge.

Same objection to all the foregoing testimony.

63 *Cross-Examination by Mr. Simmons.*

Q. Did you say Mr. Herbert Blake came out to see you himself and talked to you about these storage receipts? A. Mr. Brittan more particularly than myself. He corresponded and talked about it.

Q. He came out personally and had a talk with Mr. Brittan? A. Mr. Brittan and myself, more or less together, a part of the time not together.

Q. You don't know what he said to Mr. Brittan about these storage receipts? A. I could'nt swear to that, he and Mr. Brittan conversed with me thoroughly on these matters all the time, daily and hourly over it in reference to these matters, unless there was something I was very specially interested in at the time.

Q. You say part of the time when he came out to see about these loans he was talking to Mr. Brittan alone? A. Yes sir I think so.

Q. You did'nt know what he said to Mr. Brittan when you were not present? A. No sir I could'nt say.

Q. Did'nt you ask Mr. Blake about the Security Warehousing Company? A. No.

Q. Did you ask him whether the Security Warehousing Company had a warehouse anywhere ?/ A. I did not.

Q. Did Mr. Brittan? A. Not that I know of.

Q. Did'nt you ask Mr. Blake when he offered you this sort of security where the goods were stored? A. No sir.

Q. Did he tell you that they were stored in Racine or in Stevens Point ?/ A. No sir.

Q. Did he tell you anything about where they were stored?
64 A. I don't remember that he did. I don't remember Mr. Brittan either mentioning it.

Q. Whether he did inform Mr. Brittan or not when you were not present you are not able to say? A. No I am not able to say. That was'nt a point to consider in making the loan anyway, would'nt make any difference to us whether stored in Racine, Chicago or Rock Island. We were looking at the amount of the security, if there was margin enough there.

Q. You say you made some inquiry about the Security Warehousing Company and about their being in business? A Yes sir.

Q. Did you find out any place where the Security Warehousing

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E. S. G

Company had a warehouse of its own? A. Did'nt inquire as to that.

Q. Did you get any information that the Security Warehousing Company had any warehouse of its own anywhere in the State of Wisconsin? A. Not that I know of.

Q. Or in the State of Illinois? A. Not that I remember.

Q. You were satisfied then by the fact that it called itself a warehousing company and was doing business? A. Well hardly that, we wrote I think to the First National Bank of Chicago and Continental Bank of Chicago inquiring as to the Security Warehousing Company, what their business credit was and how they stood and their replies were very complimentary to the concern that satisfied us they were proper people to deal with.

Q. Your inquiry then was addressed to their responsibility? A. And the fact of their doing a warehousing business.

65 Q. Did you learn they had any warehouse anywhere? A. I think not, I don't think it made any difference to us. We found they stood in high credit in Chicago banks and took their warehouse receipts and that was the point we were after.

Q. You say you would'nt have loaned this money except upon these receipts? A. We would not have loaned a dollar of it unless we had this collateral. We had been solicited just before to loan on that very fact and had refused.

Q. And you relied entirely on this collateral did you? A. Yes sir.

Q. That is the only collateral there was to these notes? A. That was the only collateral they gave to those notes at the time.

Q. At the time you say? A. Yes at the time.

Q. Have they ever given any other collateral? A. No they have never given any other collateral. We have got a collateral, we have got something on deposit with us that may have a value or may not.

Q. What do you refer to? A. We got some certificates in relation to, covering some land and lots there that has a prospective value in our hands that we hold as security for anything and everything.

Q. By what right do you hold that? A. Because it was given to us.

Q. Given to you when the real estate mortgage was given? A. Along about that time.

Q. And the Racine Knitting Company only holds that as collateral itself does it not? That is to say the Racine Knitting Company was'nt the owner of those land certificates? A. I guess

66 there is hardly anything else but ownership. Nobody else got any interest and they did assign it to us.

Q. When did they assign it? A. Along in December or January, soon after this building was built.

Q. At the time of the first real estate mortgage? A. I think a little after that.

Q. Now those certificates amount to Thirty Thousand Dollars, do they not, face value? A. Yes sir.

Q. And deposited by Mr. Wheeler of Wheeler and Company as collateral to their contract with the Racine Knitting Company? A. I would'nt attempt to give any testimony here about this question. We have got everything that is necessary toward making a good assignment of those certificates.

Q. The Racine Knitting Company never turned these out to you as collateral to these notes? A. That is another question that perhaps I cannot—we hold these certificates as collateral to anything and everything the Racine Knitting Company owe us then or might owe us.

Q. Have you such an agreement from the Knitting Company? A. We have that agreement and understanding.

Q. Is that in writing? A. I could'nt say that it is or whether it is not. I would'nt attempt to say here.

Q. You say you have that understanding, with whom did you have that understanding? Racine Knitting Company.

Q. As a representative of the Racine Knitting Company who do you refer to? A. I would'nt be sure to say, most of our dealings were with young Mr. Blake.

Q. Did you have such an understanding with Mr. Herbert 67 S. Blake? A. I think so.

Q. When? A. Now you are going into a part of this I would'nt be able to swear to. Mr. Brittan, at the time this mortgage was given and long after had the entire transaction in his hands. I was busy at some other department of the bank and whatever was done I would'nt say that I was present at that time, although I am familiar with it all in conversation with Mr. Brittan and in consultation with Mr. Brittan about these matters.

Q. You had those land certificates long prior to their application to you for this loan? A. Yes indeed.

Q. And you refused to let them have the money without this other collateral? A. The value of those certificates is a very uncertain quantity. We could'nt rely much upon their value, but there is a value on it we think.

Q. You did'nt mention the value of the land certificates in the note as part of your collateral? A. No sir.

Testimo
E. S.

Q. Why did you not if you were holding the land certificatees as collateral? A. I don't know whether it occurred to Mr. Brittan, who drew up the claim and sent it forward here. The whole matter of it is they are held to secure us our money in loans to the parties. We would'nt loan them the money without the security when we get our moneys we will deliver up our securities. We have no other interest in it. We want our money and claim we are entitled to our money, and we have got these securities to try and get our money.

Q. Let me ask you, have you any agreement in writing from the Knitting Company, or have you ever seen any agreement in
writing from the Knitting Company to the fact that you
68 hold or may hold these land certificates as collateral to any
moneys you loaned the Company? A. I don't think that we
have, I hav'ent seen any stipulation in writing in regard to it, no.

Q. Did you personally have any understanding or agreement with any officers of the Knitting Company to that effect? A. No I don't think I have, because those certificates were not given into my hands. Mr. Brittan, I think at this time, had this transaction.

Q. You were not present? A. No, when they were delivered I was not, no sir. I am pretty certain I was not. Of course it is quite a while to state, but I don't remember of being present.

Q. Did you or any representative of the Bank visit Racine to see the alleged warehouse of the Security Warehousing Company? A. We did not.

Q. Never at any time? A. Never at any time.

Q. Did any representative of the Bank visit Stevens Point at any time to see where these goods were stored? A. Not at any time.

P. P. CAMP recalled for further cross examination

Testim
P. P.

By Mr. Simmons.

Q. Do I understand you that your bank has had these in storage receipts in its possession ever since it first received them in April, 1903? A. Yes sir.

Q. And you have been the owner of them during all of that
time? A. It has.
69 Q. Were they ever delivered back to Mr. McKeand? A.
They were not.

Q. Was Mr. McKeand the owner of them, or any of them on the 16th day of November, 1903? A. No sir.

It Is Stipulated that William M. Brittan, President of the L. C. Hyde and Brittan Bank would if called as a witness testify as to the making of the loans and the delivery of the Warehouse receipts to his bank and as to the extent of his knowledge concerning the receipts and the storage of property therein mentioned substantially as testified to by Mr. Greene.

But this stipulation does not apply to the testimony of the witness Green as to the Beloit Land Certificates.

Also stipulated that the five warrants delivered to the Citizens Bank of Mukwonago were, prior to the delivery thereof endorsed in blank by the Racine Knitting Company, and also that the receipts delivered to the Hyde and Brittan Bank were before the delivery to the Bank endorsed in blank by the Racine Knitting Company.

ANNA EILERS being first duly sworn on oath, testified as follows:

Examined by Mr. Robbins.

Q. What is your full name? A. Anna Sophie Margaret Eilers?

Q. Where do you live? A. I hav'ent any permanent residence.

Q. Have you at any time lived at Stevens Point, Wis.? A. Yes.

Q. How long? A. For about 2½ years.

70 Q. Beginning when? A. In September, 1901.

Q. And ending when?/ A. In December, 1903.

Q. During that time were you in any way connected with the Racine Knitting Company?/ A. Yes sir.

Q. In what capacity?/ A. As Cashier.

Q. Do you remember Mr. Banks coming to Stevens Point for the Security Warehousing Company during the time you were there?/ A. Yes sir.

Q. Do you remember when that was? A. In January, 1903 the first time.

Q. At that time did you know of the existence of the paper marked Exhibit "C" (paper handed witness) A. Do you refer to this paper? No.

Q. Were you told of a paper of that kind? A. No I know nothing about it.

Q. Did you know about that time that the Security Warehousing Company had leased any part of the store room or warehouse of the Racine Knitting Company? A. I understood that they had.

Testimo Anna

Q. Was anything said to you by Mr. Banks about acting for the Security Warehousing Company ?/ A. Yes sir.

Q. Did you agree to so act ?/ A. Yes sir.

Q. In what capacity ?/ A. As custodian.

Q. As custodian for the Security Warehousing Company ? A. Yes.

Q. When was that ? A. That was in January, 1903.

Q. And how long were you acting in that capacity ? A. Until December 15th, 1903.

Q. Is that your signature (showing witness paper) ? A. Yes sir.

Q. When was that signed ? A. I think about the 25th of January or 28th, I don't remember the date.

71 Q. And what became of it after you signed it ? A. Mr. Banks had a copy and I had a copy.

Agreement between Anna S. M. Eilers and Security Warehousing Company offered in evidence and marked Exhibit "J"

Mr. Simmons: Objected to as incompetent and immaterial.

Q. Look at Exhibit "I" please, does the space marked "store room" represent the warehouse of the Racine Knitting Company ? A. Yes sir.

Q. Now does the space marked "S. W. Co. Prem. No. 235" represent the space covered by the lease to the Security Warehousing Company ? A. Yes sir.

Q. I wish you would describe how that space was enclosed ? A. Just wooden paling running from floor to the ceiling.

Q. And how high is the ceiling to the floor under that space ? A. I don't know.

Q. Well approximately how much higher than your head ? A. I should imagine fifteen feet above the floor.

Q. How far apart were these boards or paling that you speak of ? A. About four inches apart.

Q. And was there a door at the point indicated on this drawing ?/ A. Yes sir.

Q. Was that door locked during the time you were speaking of ? A. It was.

Mr. Simmons: I would suggest that you let the witness testify to the facts and not ask leading questions.

Q. Describe that door and lock ? A. It was a sliding door and it was secured by a padlock lock and key furnished by the Warehousing Company.

Q. To whom was the key furnished ? A. It was put on the premises by the warehousing company.

72 Q. Who had the key? A. Mr. Banks gave me a key, and I think the warehousing Company had a key.

W. When did you get your key? A. The day that Mr. Banks was on the premises and the goods were put in.

Q. In January, 1903?/ A. Yes.

Q. And how long did you keep your key? A. Until about the middle of December, 1903.

Q. And then what did you do with it? A. I surrendered it to Mr. Banks.

Q. Now during that period did you see those premises? A. Yes sir.

Q. How often? A. Very nearly every day.

Q. Did you make any reports to Mr. Banks in reference to the condition of the premises?/ A. Yes sir.

Q. How often was that done? A. Usually twice a month.

Q. Speaking generally what was the tenor of these reports?

Objected to as not the best evidence and not competent and immaterial.

Objection sustained.

Q. During that period how did you find those premises as to this door as to whether it was locked? A. It was always locked unless I opened it with my key.

Q. What was inside of this space? A. Cases of goods.

Q. Was there any sign on the outside of these premises enclosed for the storage company?/ A. Yes sir.

Q. What kind of a sign was that? A. A card board sign stating that the premises were leased by the Security Warehousing Company.

Q. Printed?/ A. Yes.

73 Q. And about what size? A. Size of the card you have, I don't know.

Q. Is that the kind of sign that was there? A. Yes sir.

Q. Wjere was that sign with reference to the door? A. Above the door.

Q. On the inside or outside of the enclosed premises. A. On the inside for a time, and I think afterwards changed by Mr. Banks on his second visit to the place.

Q. When was that? A. In September, 1903.

Q. And where was it then? A. On the outside of the door.

Q. And how long did it remain on the outside of the door? A. It was there when I left.

Q. Did it have the number on? A. Yes sir. 235 printed.

Testimo
Anna

Q. Was that sign so placed that persons could see it who came into the warehouse?

Objected to as leading.

Q. Where on the plat was this sign? A. Previous to September it was on the inside above the door marked "x" and after that it was placed on the outside I think it was placed directly on the door marked "x".

Q. So that one entering the outer door "y" of the warehouse could see the sign at the door marked x. Could anyone entering the outer door of the warehouse see thie sign and read it? A. Yes sir.

Card board sign offered in evidence and marked Exhibit "K"

Q. What if any signs were there on the premises leased by the security company other than the one you have spoken of? A. There was another sign exactly the same placed on the other side of the paling, opposite the other side at the point marked "z." There were also cards on each case.

74 Q. How long was the sign at the point "z"? A. During the entire period that I was there.

Q. And it was there when you left it? A Yes sir.

Q. And now what kind of a sign was it, these little signs you speak of? A. It was a printed card, and lock number and exhibit number written on.

Q. Is that the kind of a sign? A. Yes sir.

Q. How many of them? A. Do you mean how many on each case, one on each case.

Q. Filled in with marks, on each case? A. Yes sir.

Card offered in evidence, marked Exhibit "L"

Q. Was the sign at the point marked "z", how was it placed with reference to whether it was open to view or not to a person going into the premises? A. It could very easily be seen.

Q. How was it placed as to height? A. About six or seven feet from the floor.

Q. And how high were these boxes piled? A. No higher than seven feet.

Q. How was the sign placed with reference to boxes? A. It was placed above the boxes, that is it could be seen from the center aisles.

Q. Did the center aisle run from the door to the point marked "z"? A. Very nearly. The door of course is'nt in the center.

Q. There was an aisle running East lengthwise of the room, was there? A. Yes sir.

Q. And this sign at "z" was at the end of that aisle? A. Yes sir.

Q. Could it be seen from a person at the north end of that 75 aisle? A. Yes sir.

Q. Was the door marked "y" a door that could be locked? A. Yes sir.

Q. Was the door locked during the time you were there? A. Not at all times.

Q. Did you have a key to that door? A. There was a key left in the office.

Q. Did you have access to the key to that door? A. Yes sir.

Q. During all this time? A. Yes sir.

Q. About how often did you say you went into see these premises of the Security Company? A. I saw them usually once a day. I did'nt go into the premises, merely into the store-house, but I could see that everything was in good condition.

Q. You could see through the palings that the property was not touched? A. Yes sir.

Q. When you went in was the door locked or unlocked? A. Sometimes it was unlocked.

Q. When it was locked how did you get in? A. With the key from the office.

Q. You took the key in the office and unlocked it and went through? A. Yes sir.

Q. Was that true during the entire time that you were custodian there? A. Yes sir.

Q. Was there a window at the point marked "window" here in this store room? A. Yes sir.

Q. How was this space as to light at the point marked door? A. It was quite well lighted.

Q. Daylight? A. Yes sir.

Q. I wish you would explain again what you did as custodian during this time, what were the nature of your duties? A. When goods were received, manifest were made out and sent to Mr. Banks, and Mr. Banks would notify me to receive the goods and have them placed in the premises?

76 Q. And then what was the next step, did you notify him? A. The goods remained there, simply reported the condition twice a month.

Q. What do you mean by conditions reported? A. As to whether the property was in good condition and undisturbed.

Q. Make any report about the lock? A. Yes sir.

Q. Whether it was locked up or not? A. Yes sir.

Q. Did anybody representing the Security Company come up there during that time to see the property? A. Yes sir.

Q. Who? A. Mr. Banks.

Testimon
Anna

Q. What did he do when he was up there? A. He was there when the goods were released.

Q. What do you mean by goods released? A. Turned over, as I understand, to some of the Chicago Banks.

Q. Well what did he do, did he open the door or did you open the door? A. Mr. Banks.

Q. How did he open the door? A. With his own key.

Q. And then what did he do? A. He allowed the parties to take the goods and gave me a release.

Q. of the goods taken? A. Yes sir.

Q. What became of the goods? A. Goods that were released were shipped out of the city.

Q. By the parties that came with Mr. Banks? A. Yes sir.

Q. Do you remember when that was? A. In September, 1903.

Q. Was not other property released from that storage premises during the period you were there? A. No sir.

Q. In what form were these goods inside of that storage premises? A. They were all packed in cases.

Q. Were any of those cases removed from that warehouse during the period you were custodian except these disclosed? A. Only at the time Mr. Banks was there.

Q. In September? A. Yes sir.

77 Q. When you left there how was the premises left with respect as to whether the door was locked or not? A. The door was locked.

Q. And that I think you said was— A. December.

Q. Where was it you delivered the key? A. I mailed it to Mr. Banks.

Q. Did you ever look at that lock to see what was on it? A. No sir I don't remember what was on it.

Q. Do you remember whether the name of the Security Warehousing Company was on that lock or not? A. Yes I think it was.

Q. How did that appear on the lock, do you remember? A. I don't remember, but I recall seeing the name on it.

Q. Indented in the lock or pasted? A. I think it was indented.

Q. And was the same lock there during the entire time? A. Yes sir.

Q. I see that this agreement, Exhibit "J" speaks of a compensation of Five Dollars a month was that paid you? A. Yes sir.

Q. By whom? A. I received a check from the Warehousing Company.

Q. Monthly? A. No sir, quarterly.

Cross-Examination by Mr. Simmons.

Q. You say you were acting as Cashier for the Racine Knitting Company at Stevens Point when Mr. Banks first came up there Miss. Eilers? A. Yes sir.

Q. How long had you been working for the Knitting Company in that capacity? A. I had been at Stevens Point since September 1901.

78 Q. And you held this position all the time did you? A. Yes sir.

Q. And after you say you accepted the position of custodian for the Security Company you continued to act as Cashier of the Racine Knitting Company? A. Yes sir.

Q. And that condition continued down to the time of the failure of the Company? A. I remained there until December, 1903.

Q. This same condition continued until the Company failed? A. Yes sir.

Q. After that you were employed were you not by Messrs. Hand and Dietrich, the Receivers? A. Yes sir.

Q. And acted as Cashier for them? A. Yes sir.

Q. And did you subsequently act for the Trustees, or did you leave there when the Trustees were elected? A. I don't know just when the Trustees were elected.

Q. What time in December did you leave? A. About the 15th.

Q. Then if the Trustees went into control of the business about the 7th or 8th of December you were in their employ until the 15th? A. I remained there, there was no change in my position.

Q. You were receiving a salary I suppose from the Racine Knitting Company, and subsequently from the Receivers? A. Yes sir.

Q. What was that salary? A. $75.00 per month.

Q. What were your duties as Cashier of the Knitting Company? A. Various duties besides handling the cash that came in, quite numerous.

Q. In a general way state what they were? A. Taking charge of the orders, seeing that they went through the mail properly.

Q. Seeing that they were sent out? A. Yes sir.

Q. Your duties as Cashier required your presence from
79 time to time in the warehouse where these goods were? A. Other duties called me there.

Q. When you say other duties, you mean other duties belonging to your position as Cashier do you? A. Yes sir.

Q. What was this main part of the warehouse outside of that paling used for? A. For raw materials, supplies of all kinds of the Racine Knitting Company.

Testimony Anna E

Q. And it was so occupied during this entire period from January, 1903 down to the time you left? A. Yes sir.

Q. They stored manufactured goods in there too? A. No sir.

Q. Only raw materials? A. Raw materials.

Q. Now those raw materials stored outside of that paling were not included in any warehouse receipts or manifest were they? A. No sir.

Q. Did the Knitting Company also store its packing boxes in this warehouse? A. Yes sir.

Q. Outside of this paling? A. Yes sir.

Q. Outside of this enclosed space of paling? A. Yes sir.

Q. Did they keep on hand a considerable amount of raw materials in large number of packing cases there? A. Quite a lot of raw material.

Q. What about the packing cases? A. Yes quite a lot there.

Q. Pretty well filled up? A. Yes sir.

Q. What kind of goods went into this enclosed space in the corner there inside of this paling? A. Manufactured and also raw material.

Q. What class of raw materials do you mean? A. Yarns.

Q. Anything else? A. No sir.

Q. When did you first put yarns in there? A. I think it was in April, 1903.

Q. Those were yarns which I suppose had been purchased by the Racine Knitting Company to use in the factory? A. Yes sir.

Q. Did you ever require any of those yarns to make up into manufactured goods between April and December? A. They were'nt taken out.

Q. Do you mean to say that all of the yarns which were put in there inside that paling remained there until you left in December? A. A very small quantity was taken out for a sample.

Q. When was that done? A. I think it was in August.

Q. Who took it out? A. I did.

Q. Did anybody assist you? A. Yes sir.

Q. Who was it? A. The engineer, Mr. McCreedy.

Q. What was done with it? A. It was made up into samples.

A. Sample what? A. Small Swatchers.

Q. You mean by that little square samples? A. Yes sir.

Q. What was done with those samples? A. They were intended to be sent out to agents.

Q. Of the Knitting Company? A. Yes sir.

Q. You got them for that purpose? A. Yes sir.

of
ers.

Q. Do you know from what case they were taken? A. I don't remember.

Q. Mr. Banks was up there only twice I understand? A. Yes sir.

Q. Once at the beginning of the transaction of this business in January, 1903 and the last time you say in September, when some goods were released to Chicago banks? A. Yes sir.

Q. Did you receive information that Mr. Banks was coming up there shortly before he arrived? A. Yes sir.

81 Q. From Mr. Pugh? A. No sir, I think it was through a letter from Mr. Banks.

Q. Did you have any conversation with Mr. Pugh? about his coming? A. I think something was said.

Q. Did you say to Mr. Pugh that you was glad he told you when he was to arrive because you wanted to go out and fix up these manifest goods? A. No sir, I don't remember. There was'nt anything to fix up I don't see why I should have said it.

Q. Will you testify you did'nt say that to Mr. Pugh? A. I don't remember of saying it.

Q. Then you may have said it, but don't now recollect? A. I don't recollect, but I don't see why I should have said it.

Q. Such a statement would imply to your mind that there was something wrong about the manifest goods would it? A. I don't remember of saying anything.

Q. That is the reason you say did'nt see any occasion for saying it, because such a statement would imply there was something wrong about it? A. There wasn't anything wrong.

Q. Is that the reason why you say that you didn't see why you should have said it? A. Yes sir.

Q. If you made such a statement that would indicate there was something wrong with the manifest goods?

Objected to.

Q. Did you immediately after having the conversation with Mr. Pugh go out into this warehouse and into the enclosure which was surrounded by the paling? A. I don't recall doing so.

Q. You don't recall that you didn't do so? A. No sir. All I remember about the conversation with Mr. Pugh about Mr. Banks' coming, I think the conversation was after Mr. Banks had been there, a letter had been mis-directed and did not reach me until after Mr. Banks came.

82 Q. You think now you didn't have any conversation before Mr. Banks arrived with Mr. Pugh? A. I hardly think so.

Q. Now you say that this was in September that Mr. Banks

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came up there the second time, are you sure it was in September? A. Yes sir.

Q. How do you fix the date as in September? A. It was shortly before the failure.

Q. Wasn't it on the very day before the meeting of the creditors called in Chicago? A. No sir. I understand the meeting was the 5th of October.

Q. And this was on the Sunday before was it not? A. No sir, I think it was a week before.

Q. You are not sure about it? A. I am quite sure the date was September 26th.

Q. It was on a Sunday was it not that they were there? A. Yes sir.

Q. You think it was not the day before the creditors meeting in Chicago, but the Sunday a week before that? A. Yes sir.

Q. Have you any memorandum by which you fix that date? A. No sir, it would appear on the stock record.

Q. This creditors meeting had been called at Chicago at the time they came up there had it not? A. I do not know.

Q. Didn't you hear about the creditors meeting or the issuing the call for it? A. No sir.

Q. What time did they arrive there on Sunday? A. I reached the office at about eight o'clock and I found them there.

Q. Were you sent for to come over there? A. I had been notified to be at the office.

Q. You said eight o'clock in the morning did you not? A. Yes sir.

83 Q. Who had notified you to be there at that time? A. I don't remember whether it was through the letter or whether Mr. Pugh mentioned it.

Q. You understand that you were to meet Mr. Banks there? A. Yes sir.

Q. Then you think Mr. Pugh may have mentioned the fact to you that Mr. Banks was to be there on that Sunday morning? A. He may have.

Q. Now is'nt it a fact and don't you recall it as a fact that he did tell you that Mr. Banks was to be there that morning? A. No, I cannot positively say that I do remember his mentioning it.

Q. Well did these gentlemen get those goods out and shipped them away on Sunday? A. They were taken from out of the warehouse on Sunday.

Q. Where were they taken? A. I presume to the freight office.

Q. And that was the time was it that Mr. Banks took this sign from the inside of that door and put it on the outside was it? A. Yes sir, it was changed at that time.

Q. Up to that time it had always been on the inside of that door? A. Yes sir.

Q. And I understand you to say that it faced toward the interior of this leased space? A. When it was on the inside of the door, inside of the enclosure.

Q. Which way did the lettering face? A. Inside.

Mr. Robbins: And when it was on the outside the lettering was facing out? A. Yes sir.

Q. There was one window, as I understand in that warehouse building, and that was on the front in the same end where the door? A. There were two windows. 84

Q. Where was the other window? A. In the South end, just outside of the smaller enclosure.

Q. That window was boarded up was it not? A. No sir.

Q. What was the condition of the window? A. It had a shutter, but it was open, of course when anyone went into the warehouse.

Q. Always opened? A. If they wanted to see anything they would have to open it to tell the light.

Q. Couldn't you see it from this front window? A. Not up in that part of the building.

Q. And it was necessary to go down there and open that shutter before you could see in this space of the paling? A. No sir.

Q. Well you say this window was down at the South end, and it was necessary to open that window before you could see in that part of the warehouse? A. Yes, but not necessary to open that window in order to see the door of the enclosure.

Q. There was nothing to be seen on the door of that enclosure until Mr. Banks put this sign on the outside was there? A. No sir.

Q. How large a padlock was this that you say was on that door of the paling? Was it a large one or small one? A. Not very large, an ordinary size.

Q. Couple of inches in length and width? A. Yes sir.

Q. Now there never were any signs on the outside of this warehousing building indicating that it was occupied by the Security Warehousing Company or that it was a public warehouse? A. No sir.

Q. No signs of any kind on it were there? A. No sir.

Q. You say the cases inside of this paling were piled up about seven feet high? A. Yes sir. 85

Q. And were they piled up on both sides of this aisle that you speak of? A. Not the entire length of the enclosure.

Q. Well in what part of the enclosure were they piled up, generally speaking? A. For a time they were on the entire length of one side and part of the other side.

Q. Now when they were piled up on both sides there for a part of the distance at each end were they in the entrance end or the rear end? A. Just about the center.

Q. Were they not piled up against the rear end there? A. Not up close against the wall, may have been on one side.

Q. One side I think you said they were piled up the whole distance? A. Yes very nearly.

Q. I suppose you never took any measurements to see how high up these signs were posted? A. No.

Q. When you stated that the sign in the rear was about seven feet above the floor that was merely an estimate or guess work on your part? A. Yes sir.

Q. It may have been higher? A. Yes sir.

Q. And may have been lower? A. No I don't think so.

Q. Was it ever changed up to the time you left there? A. No sir not the one of the outer wall.

Q. When you speak of the outer wall you mean at the rear end of the enclosure? A. Yes sir.

Q. You had one key to this padlock did you? A. Yes sir.

Q. You say Mr. Banks had another? A. Yes sir.

Q. Do you know of any other keys? A. I do not.

Q. Where did you keep that key? A. With others, with the other office keys on a key ring.

86 Q. In the Knitting Company's office? A. Yes sir.

Q. When you speak of other office keys, you mean keys of the Knitting Company do you? A. Yes sir.

Q. What other doors about the Knitting Company were locked besides this padlock that locked the entrance? A. The outer door of the main building was locked.

Q. What other keeys were there that you had on the ring? A. The key to the office door, the desk keys, and keys to the safe and cash drawer.

Q. Were there duplicates of those keys? A. Some of them.

Q. And where was this key ring kept? A. Usually had it in my possession. During the day it was in my desk.

Q. I suppose the Manager of the Company had access to those keys and used them did he not? A. Occasionally.

of ers.

Q. Whenever he pleased, when he had occasion to use them he did use them did'nt he? A. Yes sir, very seldom.

Q. Were the bills for storage etc. rendered by the Security Warehousing Company to the Stevens Point office? A. I never saw them.

Q. You never saw any? A. No sir.

Q. You knew that your salary was charged up to and paid by the knitting company did'nt you? A. No sir.

Q. Were you never informed to that effect? A. Not until afterwards.

Q. When Mr. Hand and Mr. Dietrich the Receivers took possession of the property of the knitting Company they took possession of this warehouse building did they not?

Mr. Robbins: Objected to on the ground that is a question of law.

Objection sustained.

Question withdrawn.

87 Q. Did you give a bond as custodian Miss. Eilers? A. Yes sir.

Q. Was it a Surety Company bond? A. Yes sir, The United States Fidelity & Guaranty Company.

Q. From whom did you obtain the bond, what agent? A. An application was left with me by Mr. Banks. I signed it and he attended to the matter.

Q. Do you know what the premium was? A. No sir.

Q. What was the amount of the bond? A. $5000.

Q. Who paid the premium? A. The application stated that the premiums would be paid by the Security Warehousing Company.

Q. Who did in fact pay it? A. I do not know.

Q. Were you not informed by anybody connected with the Knitting Company that it was paid by the knitting company? A. No sir.

Q. This paling you say was built of boards about four inches wide? A. I think that is about the size.

Q. Was it boarded up tight? A. No there was spaces left in between.

Q. About how wide were those spaces? A. About four inches.

Q. About the same width of the board? A. Yes sir.

Q. And when was that built? A. It was built in January, 1903.

Q. Was'nt any built in December prior? A. I think not.

Q. It was built shortly before the goods were received for storage? A. Built before Mr Banks ever come up there was'nt it? A. Yes sir.

Q. Who built it? A. Mr. McCreedy.

Q. He was engineer for the knitting company? A. Yes sir.

88 Q. Who paid him for it? A. He received his salary, there was no additional payment that I know of.

Q. Now when Mr. Hand and Mr. Dietrich came up there as Receivers after the filing of the petition in bankruptcy in this case they notified you, did they not that theyn had taken possession of this warehouse building, and the goods inside there, and that you should allow noone to handle the goods in this enclosed space?

M. Merton: Objected to as immaterial.

Objection overruled.

A. No sir. Mr. Hand, I think it was, informed me that the Receivers had been appointed, but said nothing about taking possession of any of the property at all.

Q. He notified you that those goods in there must not be interferred with, nor allowed to go away? A. No sir.

Q. Are you sure he did'nt? A. I am quite sure.

Q. Who came with Mr. Hand? A. Mr. Dietrich and Mr. Nelson.

Q. And was Mr. McDill there at that time also? A. I think he was.

Q. Did you ever have any talk with Mr. Hand or Mr. Dietrich or Mr. Nelson or Mr. McDill about these goods in the warehouse in this enclosure? A. No I cannot recall any conversation.

Q. You cannot recall any. You would'nt say that you had'nt had any conversation with them, would you? A. No.

Mr. Merton: This testimony what the receivers did is all taken under objection.

89 Q. You referred to a key to the outer door of this warehouse building as being in the office I think, was that on this key ring with the other keys? A. No sir.

Q. Who had charge of that key? A. No one in particular.

Q. What part of the office was it kept? A. There was a post center of the office, and it hung on a nail on the post.

Q. Was there another key in the engine room? A. Yes sir.

Q. This same outer door? A. Yes sir.

Q. These keys were kept in the places that you mention before Mr. Banks ever came there were they not? A. Yes sir.

Q. And they were kept just the same after Mr. Banks had been up there and made these arrangements? A. Yes sir.

Q. Was there any custodian of the Security Warehousing Company that took your place when you came away? A. There had'nt been one appointed when I left.

of Eilers.

Q. I suppose you don't know of any having been appointed since? A. No I do not.

Q. After these goods were released to the Chicago banks on that Sunday in September as you stated, did you receive a letter from Mr. Banks requesting you to get this key to the outer door of the warehouse and send it to him? A. Yes sir.

Q. Did you make an effort to get it? A. I spoke to the Manager about it.

Q. And he refused to let you have it? A. Yes sir.

Q. Was that before the receivers were appointed? A. No sir it was after.

Q. And by the Manager you refer to Mr. Pugh? A. Yes sir.

90 Q. He was the Manager under the Receivers? A. Yes sir.

Q. You stated that you were accustomed to take the key to this outer door of the warehouse building and go in there. I suppose there were other people connected with that establishment that also had access in the same way, did they not? A. The manager had.

Q. And did the engineer also? A. Yes sir.

Q. Any others? A. Not unless they were sent in.

Q. They were frequently sent in were they not? A. Occasionally sent in yes sir.

Q. By the manager? A. Yes sir or myself.

Q. Sent in I suppose to get materials and bring them out into the knitting factory? A. Yes sir.

Q. These two keys that you speak of were the only two keys to the outer door of the warehouse building that you know of were they not? A. Yes sir.

Q. These small tags that, one of which you identified, were I suppose attached to cases inside of this enclosure were they not? A. Yes sir.

Q. That is the only place where those were found? A. Yes sir.

Mr. Simmons: I will state that just before the opening of the hearing this morning part of the correspondence was placed in my hands from the Stevens Point office passing, considerable of it, between the Security Warehousing Company and Miss. Eilers, and of course I hav'ent had time to look it over and may want to look it over and would like her to remain.

91 *Re-direct Examination by Mr. Robbins.*

Q. What was the size of this material taken out for sample? A. Very small quantity, just a skein.

Q. About how much does a skein weigh? A. They vary. This one might have been a pound.

Q. Referring to Exhibit "I", you have spoken of there being in the outer store room raw materials and some boxes. Was there any storing of material or boxes west of the line of the door x to such a height as to obstruct the view of the signs on the outside of the door? A. No sir.

Q. During all the time that the sign was on the outside of the door 'x" was the space unobstructed so that one entering at the door 'y" could see the sign on the door? A. Yes sir.

Q. Generally how was that space west of that protected line as to being obstructed or not. Was it filled up with stuff? A. Not up near this enclosure, the goods were stored in this part of the building for a time over in the Northeast corner.

Q. You mean the Northwest corner as the points of the compass are shown on this diagram? A. Yes.

Q. How was this situation during that time as respects the space between the door y and the door x? A. It was usually left unobstructed.

Q. This key to the outer door you say hung on a post in the main office? A. Yes sir.

Q. So that you could get it? A. Yes at any time.

Q. Was that true during the whole time you were custodian? A. Yes sir.

Q. Do you know of anybody else using your key to the inner door except yourself? A. No sir.

92 Q. When the receivers came up at the time mentioned by counsel did they get into the inner enclosure? A. No sir I think not.

Q. What was the nature of this bond that you referred to, do you remember? A. Just saw the application that was all.

Q. It was a bond for your good conduct as custodian? A. Yes sir.

Q. Are you familiar with the instructions on the custodian's contract introduced in evidence? A. I read them over at the time.

Q. What did you do with respect to the instructions? A. I spoke to Mr. Banks regarding some of the instructions.

Q. Speaking generally did you follow out the instructions? A.

Yes, with the exception of one clause that I spoke to Mr Banks about.

Objected to as incompetent.

Q. And what was that? A. About notifying him in order that he might appoint another custodian in case of my absence for a few days.

Re-Cross-Examination by Mr. Simmons.

A. I wish to ask if in writing to Mr. Banks or in answering letters you were accustomed to keep carbon copies and file them in the files there in the office with the letters from Mr. Banks or the Security Warehousing Company? A. Yes sir.

Q. And those carbon copies have no signature? A. No they do not.

Re-Direct Examination by Mr. Robbins.

Q. This key ring that you speak of on which these keys were, who had possession of that key ring? A. I did when I was at the office.

93 Q. Nights what did you do with it? A. Took them with me.

Q. Did that key ring contain the key to your own desk? A. Yes sir.

Q. Your house key? A. Yes sir.

Q. And other keys of your own? A. Yes sir.

Adjourned until 9 A. M. Feb. 12, 1904.

Feb. 12, 1904, 9 A. M. Same appearances.

ANNA S. M. EILERS being recalled for further Cross Examination By Mr. Simmons.

Q. Miss Eilers I found that among the files in the Stevens Point office is a letter, or a copy I should say, of a letter dated January 6, 1903, it is unsigned, but the answer from Mr. Banks to whom it is addressed shows that it was written by Mr. H. S. Blake, Treasurer and Manager of the Company in which he says with reference to the custodianship at Stevens Point "we would prefer to have Miss. Anna S. Eilers, our cashier of the Stevens Point plant act as custodian as she has full charge of our stock at that point" is that correct, did you have charge of the company's stock? A. Well, of course Mr. Hays was the manager, I won't say that I had full charge. I don't know just exactly what he meant by that.

Q. While Mr. Hays was the manager, were you next in authority to Mr. Hays? A. At that plant, yes sir.

Q. Did you keep the books? A. Yes sir those that were kept at that point.

Q. You looked after the agents in the field? A. Yes.

Q. You saw the orders went through the mail properly, and properly filled and shipped out? A. Yes sir.

94 Q. You saw to the furnishing of the stock to the operatives in the knitting rooms did you to fill those orders? A. Yes sir.

Q. Well what duties did Mr. Hays the manager perform? A. He gave me my instructions of course I was under him entirely.

Q Well did he look after the stock, or did he go out and see to the stock and see what was needed for the knitting rooms and so on, or did he leave that to you? A. I usually informed him.

Q. You were the one who looked after the stock and gave him the information? A. Yes sir, but he would occasionally see for himself.

Q. You stated the last thing last evening that there was one of the duties in which you were instructed by the Security Warehousing Company which you failed to fully comply with, and that was to give notice to the warehousing company when you were to be absent? A. Yes sir.

Q. How many times were you absent during the year 1903? A. I cannot say exactly, there were several days that I was absent for a day possibly two days, and the longest period I think was ten days.

Q. And when you did go away I don't imagine that you took this bunch of keys along with you? A. No sir.

Q. Did you take any of them? A. No sir.

Q. When you stated in answer to the question of Mr. Robbins that in general you had performed all of the duties that you were instructed to perform for this company, what duties did you have in mind, will you please enumerate those duties? A. See that goods were not disturbed in any way, no one was permitted in the en-
95 closure without my knowledge or consent. I understand that was practically all that was requested of me. Making reports.

Q. Now this storage space was enclosed with that fence of palings before Mr. Banks came up there I think you stated? A. Yes.

Q. And were not the goods placed in there before he came? A. Yes sir.

Q. And before these contracts were entered into? A. Yes.

Q. The contracts were made at the time he was there or afterward? A. At the time he was there.

Q. These goods had all been placed in there by the knitting company prior to his coming? A. Yes.

Q. Did you personally see as to the character of the goods tha went in there and checked them up? A. Yes. I had an assistant.

Q. But was it without your personal knowledge whether th manifests were correct or not? A. They were all checked over.

Q. With you personally? A. Yes.

Q. So that you know that the goods that went in there were th same goods described in the manifests? A. Yes.

Q. If there were any other goods found there now then the must have been substituted by somebody without your knowledge A? Yes sir, unless an error was made in checking.

Q. Well you say you know they were checked up properly? A Yes, that is the boxes were all marked. Packages were marked I had an assistant. We checked over with him to see that the quantity and style number were correct. I had to rely on her, of cours to a certain extent.

96 Q. Well would it be possible for such a mistake to be mad that a package said to contain men's garments Number 40 for instance, would contain infant sizes or small children's sizes A. I hardly think it would be possible.

Q. Now suppose it to have been stated by Mr. Banks that amon the goods removed by the Chicago banks on that Sunday in September and taken to Chicago it was found that in packages of men's garments said to contain size number 40, for instance, that the first bo opened contained a union suit eight feet long, for instance, and th next garment taken out was an infant's size? How would you explain that?

Mr. Robbins: Objected to as a purely hypothetical question.

Referee: She may answer.

A. An error may have occured in checking over the goods.

Q. You think it is possible that such an error as that could hav occurred? A. Yes I have found since that such an error migh have occureed.

Q. How have you found it out since? A. From the stock, I have found some of the goods improperly marked by inspectors.

Q. Now did Mr. Banks tell you about this circumstance of th Chicago goods? A. No this is the first that I have heard of it.

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Q. Miss. Eilers, I show you a letter dated January 27th, addressed to Miss Anna Eilers, Custodian, Stevens Point and signed W. H. Banks and ask you of that is a genuine letter addressed by the Security Warehousing Company or its Manager to you? A. Yes sir.

I want a number of these letters marked for identification at the present time.

Letter marked Number "1" for Identification.

97 Q. I show you another letter dated September 25th addressed and signed as the other one, the last one, and ask you if that is also a letter received by you from this Company? A. Yes sir it is.

Q. And is the carbon copy of the unsigned letter attached to it your answer? A. XYes sir.

Letter marked Number "2" for Identification.

Q. Now this letter just showed you begins as follows: "For a special reason I write to instruct you that under no circumstances are you to allow any individual inside of the warehouse for which you have lock and key. You are probably advised what occasions this letter." Were you advised as what occasioned that letter? A. I was advised before I received that letter.

Q. What was the occasion of the letter? A. Mr. Banks" arrival on Sunday. The letter was delayed and did not reach me as it was intended to.

Q. Now this was the letter in which Mr. Banks advised you that he would come, was it not? A. Yes sir, but it was received after he arrived.

Q. Yes, but I am asking you what he refers to here when he says with reference to these instryctions that no one was to be allowed inside of these premises that you were probably advised what occasions the writing of that instruction? A. Well at the time Mr. Banks came, of course I understood why he desired to have the premises under lock and key.

Q. Well had'nt they been under lock and key before that? A. Yes, but not the outside door.

Q. But this does'nt refer to the outside door. This refers to the lock on the warehouse inside, and he says you are probably advised the occasion of my writing this letter? A. I had the key to the enclosure, it had always been in my possession, the door was never left unlocked.

98 Q. Now he says in this letter that you would under no circumstances allow any individual inside of the warehouse premises enclosed in your main warehouse for which you had lock and

key. You are probably advised what occasions this letter. Now what was the occasion of sending that instruction in September, 1903 if it had always been kept locked? A. Well I cannot say.

Q. You mean to say now that Mr. Banks was mistaken when he says that you were advised? A. He probably thought I had been advised. I knew of no occasion why I should do any differently than what I had been doing.

Q. According to your present statement there was'nt any difference? A. No, I had always kept the warehouse locked. No one was allowed in there without my consent.

Q. Why does he write you on September 25th that you were to do that very thing?

Objected to.

Q. Did'nt you know why Mr. Banks wrote that letter? A. No, I cannot say.

Q. I show you another letter dated October 1st, addressed to Miss. A. S. M. Eilers and signed W. H. Banks, and ask you if that is a genuine letter received by you from the Security Company and its Manager? A. It is.

Q. And this envelope attached is the envelope in which it came? A. Yes sir.

Letter marked Number "3" for Identification.

Q. This last letter shown you expressed his thanks to you for your attention to the gentlemen who were along with him on their visit to Stevens Point, and who were in such haste to remove these goods.

Did these gentlemen appear to be in considerable haste to get
99 those goods out of there? A. Yes sir for the reason they expected to leave on an early morning train.

Q. That is the only reason that you know of? A. The only reason that I know of.

Q. What morning train do you mean on a Sunday morning train? A. Yes, the gentlemen understood there was a train leaving the city at 10:05, but that train does'nt leave Sunday morning.

Q. So there was'nt any train out of Stevens Poinnt? A. Not that morning, no sir.

Q. I hand you another letter dated October 3rd addressed to yourself, and signed E. C. Curtis, for W. H. Banks, District Manager, and ask you if that is a letter received by you from the Security Company? A. Yes sir.

Q. And is the carbon copy attached a copy of your answer to same? A. It is.

Letter marked Number "4" for Identification.

Testimo
Anna

Q. What are the nine delivery orders referred to in that letter? A. For the property which was taken out that Sunday morning.

Q. They did'nt give you any delivery orders at the time they were there, but sent them up afterwards? A. Yes they were sent up afterwards. I was given a temporary receipt at the time for the goods.

Q. Their instructions previously given to you required that you have delivery orders before you let any goods go, did they not? A. I think so.

Q. I show you another letter dated October 5th addressed to yourself, and signed W. H. Banks, District Manager, and ask you if that is another letter received by you from the Security Company? A. Yes, it is.

Q. And is the carbon copy attached a copy of the letter of your reply to the same? A. Yes, it is.

100 Letter marked Number "5" for Identification.

Q. In this reply of yours to Mr. Banks' letter you informed him that you had been told that the Company had passed into the hands of Receivers, and that it would be contempt of Court to allow these manifest goods to be disturbed, did you not? A. I think that is what I stated in the letter.

Q. From whom did you get that information? A. Mr. Pugh.

Q. Did you also understand from Mr. Pugh at that time that he had been put in charge of that plant by the Receiver? A. He had been there as Manager. I did not know by whom he had been placed there.

Q. Well did he inform you that he had received instryctions from the Receiver by telephone? A. I knew that he had spoken with the Receivers. He informed me that Receivers had been appointed.

Q. Well did he give you this information in regard to the contempt of Court in the removal of those goods, as mentioned received by him from the Receivers? A. I think there was some correspondence previous to that regarding removal of goods.

Q. None with you was there? Is'nt that the first letter he wrote to you in reference to removal? A. Yes, I think this is the first one.

Q. When Mr. Pugh informed you that the Company had gone into the hands of Receivers and that it would be contempt of Court to disturb these goods, did he give you that information as coming from the Receivers to him? A. Yes.

Q. I now show you a letter dated October 6th addressed to your-

self and signed W. H. Banks, and ask you if that is a letter re-
101 ceived by you at Stevens Point from this Company? A. It is.

Q. And is the carbon copy attached you reply to the same? A. Yes it is.

Letter marked Number "6" for identification.

Q. I show you another letter dated October 7th, addressed to yourself and signed W. H. Banks, and ask you if that is also a letter received by you from the Security Company? A. Yes it is.

Q. And is the carbon attached a copy of your reply to the same? A. Yes sir.

Letter marked Number "7" for identification.

It is Agreed by counsel and the Referee that the Answer filed by the Citizens Bank of Mukwonago stand as their petition the same as those of the other petitioners, and that the same defences heretofore interposed by the Trustees and Receivers shall be considered as interposed to the Answer of the said Bank, without further formality.

102 W. H. BANKS being first duly sworn on oath, testified as follows:

Examined by Mr. Robbins.

Q. What is your full name? A. W. H. Banks.

Q. Your business? A. I am warehouseman.

Q. Connected with what Company? A. District Manager of the Security Warehousing Company.

Q. Located where? A. In warehouses.

Q. Where are you located? A. Chicago.

Q. How long have you been occupying this position? A. For this Company since October 15th, 1901.

Q. Where is the principal office of the Security Warehousing Company? A. New York City.

Q. Is it a corporation? A. Yes sir.

Q. Organized under the laws of what state? A. New York City.

Q. What is its business? A General Warehousing, but in such method as is called field warehousing and storage.

Q. What is the volume of this business? A. Well the volume is very large, for the reason that the property is taken where it is found, and I don't know exactly the volume, but it is several mil-

Testimon W. H.

lions per annum The value of the property that they store amounts to several millions.

Q. In what states dose it operate A. It operates all over the United States. We have offices in Washington and California and Pacific Coast as well as all the Eastern states, and in the South also Central and Western States.

Q. Where was the Racine Knitting Company located? A. Their office is located at Racine. They have a warehouse at Racine, and also at Stevens Point.

103 Q. Where were its manufacturing plants located? A. At Beloit, Stevens Point, and Ripon, Wisconsin.

Q. It had no manufacturing plant at Racine? A. I understand they had not at this time.

Q. At what time? A. At the time after this Company was organized, that is this company in operation here.

Q. What was its business? A. Manufacturers of hosiery and underwear.

Q. When did the Security Warehousing Company first have any transactions with the Knitting Company? A. We made a contract with them in October, 1901.

Q. Is that the transaction that is covered by this Exhibit "A"? A. Yes sir.

Q. You have had no dealings with that company, your Security Warehousing Company had had no dealings with that Company prior to this time? A. No sir they were not in existence before that time.

Mr. Simmons: Your Company was not did you say?

A. No sir.

Q. Now you may explain this first transaction with the Knitting Company? A. The first transaction that we had with them was at the date I have stated, October 15th, and covered the execution of a lease of what is known as the machine shop of the Chicago, Milwaukee & Sy. Paul Railway, which had been occupied for warehouse purposes for several years prior to that. Business done in the same way that this was.

Q. By whom? A. By the Merchants and Manufactuers Warehouse Company, who was operating, and also by the Guaranty Storage Warrant Company.

104 Q. Did they have leases from these premises? A. They had lease--

Objected to.

Referee: He may answer.

A. We succeeded to the premises that were formerly occupied of Banks.

by the Merchants and Manufacturers Warehousing Company and the Guaranty Storage Warrant Company, a part of the premises which were occupied by the Guaranty Storage Company, that is to say, the Guaranty Storage Warrant Company occupied a part of the premises that we afterwards succeeded to.

Q. Which was the Company that immediately preceeded? A. Merchants and Manufacturers Warehousing Company.

Q. Well what did you do after this lease was made? A. We appointed our custodian here?

Q. Who was that? A. Mr. John W. Amend.

Q. And had a contract and agreement with him? A. Yes.

Q. Now have you got that contract? A. Yes sir.

Q. I would like to see that? (Witness produces contract)

It Is Admitted that the Agreement to act as Custodian produced by the witness is in the same form as Exhibit "J" and is dated the 15th of October, 1901 and is between John W. Amend of Racine, and the Security Warehousing Company, and recites the premises as premises Number 134, located at Racine, Wisconsin, and is signed by Amend and the Security Warehousing Company, and the compensation is Five Dollars per month: Subject to an objection on the part of the Trustees to its materiality and competency.

Q. Now proceed Mr. Banks and tell what was done? A. Prior to the execution of that lease or probably at the same time a contract which was filed here yesterday was executed between the Racine Knitting Company and the Security Warehousing Company.

105 Q. You refer to Exhibit "D"? A. Yes sir.

Q. Now go on? A. From time to time after that we received goods from the Racine Knitting Company which had formerly been stored by the Merchants and Manufactures Warehousing Company. They were discontinuing business in this part of the country, and we took up their business where they left it off, and the same goods which had been manifested to the Merchants and Manufacturers Warehousing Company and which receipts had been issued were covered by our receipts by re-inventory. They surrendered the goods to the Racine Company, and the Racine Company turned the goods immediately to us, and we receipted for them in the usual course of business. The manifest of the goods and they prepared applications in the usual form.

Q. Now do you remember how many receipts after the issuance of this lease that were issued by your company that are still outstanding? A. I think there are twenty-four or twenty-five.

Q. I am speaking about at the Racine plant? A. Well I cannot remember exactly, but I think there were ten or twelve.

Q. Can you by looking at the petition in this case, can you tell? A. I can tell from my memorandum on the desk there. (Witness refers to memoranda).

A. There were eleven receipts. There is one receipts that has'nt been counted in this case at all, that makes the twelve, just as I stated.

Q. Are those the receipts mentioned in the petition of your company in this case? A. Yes sir.

Q. And when were they issued with respect to the dates? A. They were all issued in 1902—

106 Q. No, with respect to their dates when were they issued with respect to the dates of the receipts themselves? A. On the dates that the receipts bear.

Q. Well you say you had these goods manifested and issued the receipts, to whom did you give those receipts? A. To the Racine Knitting Company.

Q. Are those the same receipts that had been introduced in evidence here in this suit? A. Yes sir.

Q. Have you prepared a sketch or diagram showing the premises covered by this lease? A. Yes sir.

Q. What is that? A. This is a plat of the first floor of the building known as the Chicago, Milwaukee & St. Paul Machine Shop building or warehouse now used as a warehouse.

Offered in evidence and marked Exhibit "M"

> Mr. Simmons: We object to it for the reason that its accuracy is not established, and also for the reason that it contains lettering inserted for the purpose of supporting the contention of the Security Warehousing Company which are incompetent.

Referee: Exhibit "M" is admitted as to the Plat only, not as to the recitals printed thereon.

Q. Have you made a plat showing the second story of those premises covered by that lease? A. Yes sir.

Q. Is that it? A. Yes sir it is.

Q. Is that substantially a correct drawing of the second story of the premises covered by your lease? A. It is.

Plat offered in evidence and marked Exhibit "N"

> Same Objection

Received as to the plat only.

Q. Where is located this building covered by this lease? A.

The Chicago, Milwaukee & St. Paul Railway tracks near their old round house.

107 Q. How far is it from the office of the Racine Knitting Company in Racine? A. Well I should say between a quarter and half mile.

Q. How far is it from the warehouse of the Racine Knitting Company? A. Office and warehouse are in the same building.

Q. What is the nature of this building covered by this lease? A. It is a large brick building which was formerly used as a machine shop and abandoned by the Railway Company for the purposes of a machine shop, and is occupied partly by the Chicago, Milwaukee and St. Paul Railway Company for other purposes, and by the Racine Company for storing goods which were not manifested. We occupied enclosures which were built with paling or boards six inches wide set upright, and about twelve feet high, ten to twelve feet high, and these doors were all locked.

Q. Well taking the first floor first. I will ask you to state whether Section "c" and Section "a" shown on Exhibit "M" are enclosed? A. They are enclosed.

Q. Now how are they enclosed, what is the nature of the enclosure? A. The enclosure is built of six inch boards stood upright.

Q. How high? A. From ten to twelve feet in height.

Q. And are they set close? A. Set about four, five, or six inches apart, varies, about an average of six inches.

Q. Now that applies to both sections "a" and "c" except so far as they touch on the outer walls? A. Yes sir.

Q. Take section a of Exhibit "M" what doors are there there? A. There is one door through which the goods are taken.

Q. Now lets mark that door.

Door marked "door x"

Q. Now what is that how does it open, slide? A. It hung on hinges.

108 How high is it? A. Same height as the partition, the paling, about the same height.

Q. Is there any lock on that door? A. Padlock on it.

Q. Whose padlock? A. The Security Warehousing Company padlocks and marked with their name on.

Q. When was the padlock put on that door? A. On the day that the goods were received.

Q. In 1901? A. Yes sir.

A. That or a lock just exactly like it. It may have gotten out of repair and exchanged, but the locks were just exactly alike.

Testimon
W. H.

Q. And how long has that lock remained on that door? A. Continuously since it was placed there in October 1901.

Q. Was the door locked during that period? A. Yes sir by our instructions.

Q. And how much of the time has it been locked. When the goods were put in there do you know whether that door was locked or not? A. I didn't see it locked myself, but the instructions were given to our custodian under our contract to keep the door locked, which he claims he did.

Q. Did you ever visit the premises yourself? A. Not until recently.

Q. Well when? A. Last fall.

Q. About when? A. In September.

Q. Was or was not the door then locked? A. It was locked then.

Q. How many keys are there to that door? A. Only one key kept here. I have a master key which unlocks all the locks of the Company.

109 Q. In whose custody was the one key that was left here? A. Custody of the custodian, Mr. Amend.

Q. Whose custodian? A. Our custodian, the Security Ware housing Company's custodian.

Q. Now coming to the door on section c what kind of a door was that? A. That was built of the same kind of material and the same way, partition upright boards, six inches wide, and spaces between four to six inches.

Q. Was the door hung on hinges? A. Hang on hinges.

Q. Was there a lock to the door? A. Lock to the door same as the other one.

Q. When was that put there? A. At the same time the partition was built and the same time the other one was.

Q. When you visited the premises in September, 1903 was that door locked? A. Yes sir locked as we found it, and I opened it myself.

Q. Is there any way of getting into either of those enclosures section a and c excepting through those two doors? A. No sir.

Q. Now who had the key to door y? A. The custodian of the warehousing company.

Q. Who? A. Mr. Amend.

Q. How long has he had that key? A. Since his contract was executed.

Q. Now where were the goods placed that were covered by these y of anks.

twelve receipts during the time since the issuances of the receipts? A. On the South side.

A. I don't care on which side? A. In the enclosures that we have described as section a and c?

Q. All of them? A. Part of them, and part of them upstairs.

110 Q. I mean all that were on that floor? A. All that were on that floor were enclosed in that section.

Q. What outside doors are there to the first floor? A. There was one principle door through which ingressers had at the East end of the building.

Door marked "door v".

Q. Is that the door marked "v" upon Exhibit "M"? A. Yes sir.

Q. Now was there any lock to that door? A. No sir that was a general entrance door for the Chicago, Milwaukee & St. Paul people, the Racine people and ourselves, the Warehousing Company.

Q. Is any part of that floor occupied by any other concern? A. Yes sir, part of it is occupied by the J. I. Case Threshing Machine Company.

Q. What part indicated on the plat here? A. Yes sir.

Q. What, if any signs were placed on these premises or in these premises? A. There were two signs placed in the section known as "a", one was on the North side of the section and the other on the west side. One was the Merchants and Manufacturers Company which was the old sign which they left there, and the other was our sign which was placed there when we took possession of the premises?

Q. What kind of sign? A. Large card sign fifteen inches long and foot wide.

Q. Is it the same card as offered here Exhibit "K"? A. Yes, with the exception of different numbers.

Q. Now that was placed on the west? A. On the north side here and on the East side section "a" near the door.

Q. In what condition was the property stored? A. Stored in cases.

111 Q. How big cases? A. Large cases three feet square and probably four feet long

Q. Wooden boxes? A. Yes sir.

Q. What if any signs were there, if any, on each of those boxes? A. The cases were marked in lots by card about four or five inches long, and three or four inches wide.

Q. Is that the card referred to as Exhibit "L"? A. Yes sir.

Testimony W. H.

Q. Like Exhibit "L"? A. Yes sir.

Q. On each box? A. Each lot was marked, there may not have been cards on each box, but that was the intention. They sometimes got misplaced, but that was the intention.

Q. Now what if any sign was there on the outside of door? A. There is a large sign just as we have described of Exhibit "K".

Q. What other sign was there on the outside of door? A. There is a small sign, paste-board sign the same stiff character exactly like that referred to, card.

Card offered in evidence and marked Exhibit "O"

A. Except that it was marked 134.

Q. When was that sign placed on the outside of the door? A. At the time the premises were taken possession of, the date of our lease.

Q. How long has that sign remained there? A. Permanently as far as I know to date from the beginning.

Q. Was it there this morning? A. Yes sir. There on the 26th of September and there yesterday.

Q. Was the door x locked, your lock on door x locked when you went there this morning? A. Yes sir.

Q. What is the condition of this place with respect to light? A. Large number of windows on the North and South sides.

112 Q. Sufficient to make daylight on the inside. A. Very clear and determine any property that is there or any conditions that existed.

Q. Could anybody entering this floor at door v see the sign on door x? A. Yes sir very well.

Q. I mean this sign we are just speaking of, Exhibit "O"? A. Yes sir.

Q. Now what was the condition of section "c" with respect to signs? A. There is a large sign on the inside of section "c" on the west side of section c which could be seen from the paling through the paling very clearly.

Q. What kind of sign is that? A. Same sign as Exhibit "K".

Q. With the number changed? A. Number 134.

Q. Could that be seen by any person standing on the North of section c through the paling? A. Yes sir.

Q. Now what sign was placed on door y? A. Sign of the same kind except that the one where the Security was larger letters than that on the inside.

Q. Well what other sign was there, there was more than one sign? A. There was two signs, one like Exhibit "O".

Q. Was this sign placed on door y? A. Yes sir.

ny of
. Banks.

Q. When? A. At the time that the premises were leased.

Q. And how long has it remained there? A. Continuously s far as I know.

Q. Was it there this morning when you went there? A. Ye sir.

Q. Was that door locked this morning? A. It was.

Q. By your lock? A. Secured by our lock.

Q. Did the same key open both doors y and x? A. No sir n the key that the custodian held.

113 Q. So that the custodian, Mr. Amend had keys to both? A To both locks.

Q. Do you know of anybody else having keys to both of thos locks? A. None authorized by me unless Mr. Amend authorized i his absence to appoint somebody to look after the premises.

Q. I asked you if there were any keys? A. Only one key fo each lock.

Q. Were there any signs on the boxes inside of section c? A This same card that we have spoken of, Exhibit "L" was on th cases in this section c.

Q. What was the usual avenue of access from the first to the se ond story to the premises shown by exhibit "M"? A. Stairway a the east end of the building premises to be occupied by lease.

Q. A stairway goes up from the first floor to the second on th east end of the building does it? A. Yes sir.

Q. When you get to the head of the stairs you reach a doo marked "z" is that right? A. Yes sir.

Q. Now describe that door? A. The door was a hinge door buil of six inch lumber with spaces between four or five inches, and extended to a closed portion above the door so that anybody could no pass in except going through the door.

Q. Did that door have a lock? A. It was locked with a padlock same character as the other

Q. Whose padlock? A. Security Warehousing Company lock with name.

Q. When was that put there? A. At the time premises wer first occupied by the Security Company in October 1901.

114 Q. How long has that lock remained? A. Continuousl since that time.

Q. Was it there this morning? A. Yes sir.

Q. Was the door locked this morning? A. Yes sir.

Q. Was the door locked when you come here in September last A. Yes sir.

Testimony o
W. H. B

Q. So far as you know has that door ever been left unlocked since the making of the lease? A. It has not so far as I know.

Q. Now that lock was furnished by your Company? A. Yes sir.

Q. How many keys are there to that? A. One key, individual key for each lock.

Q. Who has had possession of that key? A. Mr. Amend.

Q. How long? A. Continuously since the lease was made he was placed in possession.

Q. Who opened the door for you today? A. Mr. Amend.

Q. And what sign is there on that door? A. Large sign such as we have called Exhibit "K".

Q. When was that sign placed there? A. I believe it was placed there at the same time the rest of them were.

Q. Was it there in September when you came down? A. Yes sir.

Q. Was there any other sign on the door? A. There was a small sign such as we have talked about. That is now torn off.

Q. Was that there when you came in September? A. Yes sir.

Q. You mean Exhibit "O"? A. Exhibit "O".

Q. You have on this map a space on the second floor entitled office of the C. M. & St. P. Ry., for what are those premises? A.
Those premises are occupied by the Chicago, Milwaukee
115 & St. Paul Railway for purpose of their own, I don't know exactly.

Q. There is a door entrance to that office from the stairway here or hall? A. Yes sir.

Q. Not through your premises? A. No sir.

Q. Now what kind of signs, if any, were inside of your premises on the second floor? A. There was a sign pasted on the elevator enclosure from the elevator side, large card sign facing the elevator.

Q. What form? A. Form of Exhibit "K".

Q. And how long has that been there? A. Continuously since put up, sometimes torn down, but we replace them right away same kind.

Q. What other sign was there? A. Sign on a large beam near the elevator, of this same character and size.

Q. And how long has that been there? A. That has been there ever since the lease was made. Put there then.

Q. Did you find it there this morning? A. It was there this morning.

Q. Which way does that face? A. Faces the west.

ony of
H. Banks.

Q. Now were there any signs, small signs on the lots stored i this second story? A. Small cards such as we have used here o our Exhibit marked "L".

Q. Was there any other means of access to the second story tha the stairway? A. An elevator was there which they use for freig purposes.

Q. Freight elevator? A. A freight elevator.

Q. What was it, a hand lift elevator? A. Hand lift elevat enclosed

116 A. Other parties who had access to the second floor by n other way except by a door which was locked.

Q. When you reach the second floor on the elevator were the any doors into the premises, your premises? A. There is a do way from the elevator into it.

Q. Was there one or two? A. I think there were two, one each end of the elevator.

Q. Will you indicate thise on the plat?

Doors marked xx and yy

Q. Now could anyone going up to the second story on the el vator get into the premises included within your enclosure or get ont the second floor at all except by going through either one of tho two doors? A. No sir.

Q. Now what kind of doors are they? A. Same kind of doo as the rest of them.

Q. Were they locked or unlocked? A. They were fastened fro the inside, I dont know how, but there was a lock on those th morning that did'nt belong to us.

Q. Was'nt there two locks on one door, and one of the othe this morning? A. Yes sir, elevator doors yes sir.

Q. Was there a lock of your Company on each of the doors y and xx? A. I think there was.

Q. Who had the key to those locks? A. Mr. Amend.

Q. Who furnished those locks? A. Security Warehousi Company.

Q. How many keys are there? A. One key to each lock.

Q. How long has Mr. Amend had the keys to those two lock

A. Since the premises were occupied by the warehousing co pany.

117 Q. Were those doors open or locked this morning? They were locked.

Q. When you came here in September were those doors open locked? A. They were locked.

Q. Could any person without committing violence to the premis

Testimony of W. H. Bank

get into the second story without unlocking the door, except by unlocking the three doors, one of the three doors, z, xx, and yy. A. No sir except into the office we described belonging to the Chicago, Milwaukee & St. Paul Company.

Q. Now as a person came up on the elevator to the second story how was the sign that you say was in the elevator shaft place? How did it face? A. Faces the elevator itself.

Q. So that a person coming up in the elevator could see it, would see it? A. Yes sir.

Q. Could anybody enter these premises, or approach the doors of these premises without seeing the sign on the door or near the door? A. No sir.

Q. Was the light sufficient to enable a person doing so to read the sign? A. Yes sir.

Q. And when were these door locks furnished for these doors? A. At the beginning of the period when they were occupied.

Q. When were the keys given to Mr. Amend? A. At the time.

Q. Do you know of any of these doors being left unlocked since that time? A. I do not.

Q. Did you visit these premises at the time the leases were made? A. I did not.

Q. You said you visited the premises in September? A. Yes sir.

118 Q. For what purpose were you here in September? A. To deliver a lot of goods covered by receipts.

Q. Who issued those receipts? A. Security Warehousing Company.

Q. Well what did you do? A. I came up here with the parties that held the receipts and opened the door for them.

Q. How? A. By unlocking the place.

Q. With your master key? A. Yes sir. And pointed out the goods that were covered by the respective receipts held by the parties that were there to take them, and they took them out.

Q. Then what did you do? A. Locked up the premises again.

Q. Do you remember what day of the week that was? A. That was on Saturday.

Q. Do you remember the day of the month? A. 26th day of September.

Q. What did you do then? A. With respect to those goods or the premises?

Q. Well with respect to the goods, I understood you to say you gave the goods to the receipt holders, what did they do? A. The of Banks.

receipts were surrendered to me and I turned over the goods to them, and they were taken out.

Q. What did you do after that, where did you go? A. To Stevens Point.

Q. With whom? A. With the same parties, with two of the parties that took these goods out and one other.

Q. What relation had these parties to your company? A. They were receipt holders.

Q. Covering goods stored in these premises and at Stevens Point too? A. Yes sir.

Q. And when did you get to Stevens Point? A. Next morning.

119 Q. Sunday morning? A. Yes sir.

Q. And what did you do at Stevens Point? A. After going to the hotel—we went to the premises and opened the door.

Q. Who opened the door? A. I opened the door.

Q. How? A. With my key.

Q. Was it locked? A. It was locked.

Q. When you speak of door, do you refer to door x of Exhibit I? A. Yes sir.

Q. Was door y open that morning or closed? A. Open.

Q. When you opened the door x what was done? A. I pointed out the goods covered by the receipts, and they took them with their own shipping marks, and they were taken out

Q. Taken out of what? A. Out of the enclosure and shipped, off the premises.

Q. You received your warehouse receipts? A. I received the warehouse receipts.

Q. How did you identify these goods? A. The goods, every single case was tagged, are marked with a card showing receipt number, lock number and case number.

Q. And the receipt had the same numbers on it? A. Yes sir.

Q. So that you found goods with marks on it that corresponded with the marks and numbers? A. The men themselves held the receipts and identified their own goods without any effort on my part at all with that part of the delivery.

Q. What did you have to do with the leasing of the property at Stevens Point by your company? A. I went there myself and made the original survey and the lease and drew the lease and took the measurements, superintending the placing of the lock on the door and tally the cases.

120 Q. That was before or after the enclosure was built? A. That was after.

Testimony o
W. H. Ba

Q. And were warehouse receipts issued? A. I issued warehouse receipts on the stuff that was inventoried and placed there.

Q. Are those the receipts that are set up in the petition of the Security Warehousing Company in this suit and have been introduced in evidence? A. They are.

Q. How were they issued with reference to the dates of the receipts? A. The receipts were dated on the day I received the properties.

Q. And are those receipts outstanding? A. Yes sir.

Q. Are all the receipts set up in the petition of the warehousing Company in this proceeding outstanding? A. Yes sir.

Q. In the hands of parties who claim possession of the property under it? A. Yes sir.

Q. And the parties so claiming possession are the intervening petitioners here? A. Yes sir.

Q. That is McKeand, the Hyde & Brittan Bank, and the Citizens Bank of Mukwonago? A. Yes sir.

Q. Collectively they are claiming to hold all the receipts that are outstanding of your company? A. With the exception of one.

Q. Where is that one? A. One on the property located in Racine.

Q. Where is the receipt? A. It is believed to be held by the First National Bank of this city.

Q. Well at the time you went up there to Stevens Point to put these goods into storage and issue the receipts what did you see there with respect to signs? A. There were no signs when I went there, but I placed them there myself.

121 Q. Where did you place the signs? A. I placed one sign at the East end of the enclosure on the inside so that it could be read from the door.

Q. What kind of a sign was that? A. That was a large sign like this Exhibit "K".

Q. Now what other sign was placed there? A. Sign placed on the inside of the premises over the door facing toward the outside in the first place, and then it was changed so it faced on the inside.

Q. Well on which side of the enclosure was it? A. On the inside of the enclosure.

Q. First place on the enclosure facing out? A. So it could be seen through the paling.

Q. And then it was changed to face in? A. Yes sir.

Q. What size of sign? A. Same as the other, fifteen inches by twelve.

Q. Now what signs were placed on the different boxes? A. Uniform sign, these cards Exhibit "L", what we call the warehouse card.

of
anks.

Q. These cards were placed upon these boxes when the property was put in store? A. Yes sir.

Q. You put them on yourself? A. I put them on myself first instance.

Q. Now whose lock was that door? A. After I went there, I took the lock with me when I went up.

Q. You put the lock on? A. Yes sir.

Q. And how many keys did that lock have? A. One key.

Q. Who was given that key? Q. Custodian.

Q. Who? A. Miss. Anna Eilers.

Q. Did anybody else since that time have any key? A. Not to my knowledge, no sir.

Q. Your master key opens that lock too? A. Yes sir.

122 Q. Now how is that building with respect to light? A. Two windows in it. One at the west end and the other at the east end.

Q. And the door at the west end too? A. Door at the west end. That is the main building I speak of.

Q. Speaking of the room marked "store room"? A. Yes sir, that is right.

Q. Now when the door was open how was that space with respect to light? A. It was fairly well lighted. Couldn't see into our section of it, the warehousing section of it very distinctly, but you could see there was a sign in there of some kind.

Q. How was it with respect to a sign placed on door x facing out A. That could be read.

Q. Could that be read when the door y was open? A. Yes sir.

Q By anybody who could read? A. Yes sir.

Q. Now when you went there in September with these gentlemen I understood you to say you found that door locked? A. Yes sir.

Q. And you unlocked it with your master key? A. Yes sir.

Q. What if anything was done to the sign? A. I changed the sign from the inside to the outside.

Q. That is the sign of the size of "K"? A. Yes sir.

Q. And where was the sign placed by you? A. Over the door of the warehousing company's section.

Q. Do you know whether that sign remains there yet? A. As far as I know it does.

Q. You do not know of its having been removed? A. It is reported to be there.

Q. After you moved the goods from the enclosure on that 123 Sunday was the door locked again? A. Yes sir I locked it myself.

Q. So far as you know has that door been allowed to remain open since that time? A. No sir.

Q. Do you know of its being open since that time? A. I do not know of its being open at all, except for the custodian's inspection and reports.

Q. Mr. Banks had your warehousing company been authorized to do business in the State of Wisconsin? A. Yes sir.

Q. Has it received certificates to that effect from the Secretary of State? A. Yes sir have a copy of it here.

Q. Where is the original. A. On file in New York.

Q. With your Company? A. With my company.

It is admitted that the Security Warehousing Company had fully complied with the provisions of Section 1770b Statutes of 1898 as amended by Sec. 27, Chapter 351 Laws of 1899 And Section 1, Chapter 399 Laws 1901, and Section 1, Page 344 Laws of 1901 for the purpose of authorizing it to transact business in the State of Wisconsin.

Q. Mr. Banks you have spoken of doing a warehousing business, does it do anything else but that kind of business? A. No sir.

Q. It just stores property for compensation? A. Compensation and storage charges.

Q. Its whole business consists of doing a warehousing business? A. Yes sir.

Q. Engaged in no other kind of buiness? A. None.

Q. And only stores the property of others? A. Stores the property of others.

124 Q. Stores no property of its own? A. Has no property of its own to store.

Q. Stores for any person deisiring to do a warehousing?

Objected to as leading and suggestive.

Cross-Examination by Mr. Simmons.

Q. You say your Company commenced doing business in October, 1901 A. Yes sir.

Q. About what time in October? A. 15th of October.

Q. That was the time you came up here and opened up the business with the Racine Knitting Company? A. That was the time the Company opened business. I was'nt here myself, our representative was here.

Q. That was about the first of their transactions in warehouse business? A. Oh no, they were doing business simultaneously with that in other parts of the country. I was doing it myself in Illinois and Indiana.

Q. You done nothing of that kind before the 15th of October? A. No sir.

Q. What have you in your hand? A. I have certificate of the incorporation of the Security Warehousing Company and the Articles of Incorporation filed at Springfield, Ill. (Witness shows them to counsel)

Q. You say the business of the company consisted of field warehousing, what do you mean by that? A. We store all classes of property, including iron ore, pig iron, grain, property of similar character which required outdoor, as well as indoor storage, and
125 we call it field warehousing, because we receive the property at the plants and warehouse of the parties who originally own it, and on which receipts were issued.

Q. The entire business of the company consists then of warehousing on premises of the owners? A. On premises we lease from the owner.

Q. The company has no warehouse of its own? A. No sir.

Q. And never has had? A. Never has had.

Q. And the method of leasing a warehouse is carried on by that company in other places is similar to that testified here as being carried on in Racine and Stevens Point is it? A. Yes sir.

Q. The company then, as I understand, always leases a portion of storage space upon the premises of the company or firm or individual whose goods it proposes to warehouse? A. It does'nt always lease those premises. Sometimes premises are independent entirely, but we have no warehoue of our own except that we come into possession of by lease. Sometimes premises are independent of the plant of the owner.

Q. Well such for instance as this one in Racine? A. As Racine and yards adjacent to places to places where ore is stored. All such class of property that has numerous expense and almost confiscating to undertake to move it.

Q. The object of these corporations or people with whom your company does business is not as a rule to obtain storage room is it? A. No sir.

Q. It is purely for the purpose of manifesting and thereby creating collateral? A. Collateral storage receipts. The receipts are also used for sale purposes.

Q. Your letter heads which you employed at the time you began business in October 1901 indicated in a general way the
126 character of the business of the Company did it? A. Yes sir.

Testimon
W. H.

Q. And this is one of the letter heads of the company, letter written by you to the Racine Knitting Company? A. Yes sir.

Letter offered in evidence and marked Exhibit "1"

Q. How long did you continue to use those letter heads? A. Till that issue was used up.

Q. And did you change the form of the letter heads? A. I used others at the same time those were used of different form.

Q. Are you using this form now? A. No sir because they were exhausted and I had no more printed.

Q. Did the change in the form of the letter head indicate any change in the method of doing business? A. It does not.

Q. Were you connected with the Merchants and Manufacturers Warehousing Company which you say preceded the Security Co.? A. Yes sir I was.

Q. In what way were you connected with the Company? A. I was their Western Manager.

Q. In Chicago? A. In Chicago up to January 1st, 1901.

Q. You were not connected with the company down to the time they turned over these goods to the Security Warehouse? A. No sir.

Q. Did they have a resident agent in Chicago? A. Yes sir.

Q. Who represented them? A. Mr. E. C. Wing.

Q. Is he the Mr. Wing you referred to in that letter of 127 October, 1901 just offered in evidence. A. I did'nt see the letter, I suppose he was.

(Letter shown witness) A. Yes that is all right.

Q. What was your business between January and October, 1901? A. I was not engaged in any special business as far as the warehousing business was concerned.

Q. Were you associated with Mr. Wong? A. I was at the office and assisted him occasionally in getting information as to the goods that had been stored before and various other lines which he was not familiar with as he had not been engaged in the business before.

Q. You say in October this company was closing out its business in this locality? A. Yes sir.

Q. Has it been doing business in any locality since then? A. I think they have discontinued business entirely so far as the issuance of receipts were concerned. Liquidating.

Q. Was the liquidation the cause of their going out of business at that time?

Objected to.

Objection sustained.

Q. Were you connected with the Guaranty Storage and Warrant Company that preceded the Merchants and Manufacturers as you state?

Objected to.

Objection overruled.

A. Yes sir I was.

Q. When were they succeeded by the Merchants and Manufacturers

Objected to.

Objection overruled.

A. April 1st, 1899.

Q. What was the occasion of the Merchants and Manufacturers taking over their business of the Guaranty Company?

Objected to.

Objection overruled.

A. They bought the Guaranty Storage Company's business out and took it over.

128 Q. Were you in the habit of coming to Racine during the period that these premises were used as you say by the Merchants and Manufacturers Company? A. My employees and inspectors were here, I did'nt ceom here personally.

Q. Was your first trip here the one made in October 1901? A. With respect to these premises. I did'nt make any trip here in October, 1901.

Q. Had you been here prior to October, 1901 personally upon these premises? A. Not in connection with this business.

Q. What do you mean by this business? A. The warehousing business generally for any of the companies.

Q. Had you ever been on those premises before? A. No sir.

Q. When was your first visit made to those premises? A. September 26, 1903.

Q. And all that you have stated about the use or occupancy of these premises prior to that date is entirely that you have been told by other people? A. Written reports that I have had from custodian and inspectors sent here from my office.

Q. Entirely outside of your personal knowledge? A. Yes sir except as stated.

Mr. Simmons: Now if your Honor please we ask to have all the testimony of this witness so far as it relates to the condition, occupancy or use of the premises in question as Racine, Wis. prior to September 26th, 1903 be stricken out for the reason that it now appears, by the admission of the witness, that he knows nothing personally upon that subject, and that his testimony is based entirely upon hearsay.

Referee: Motion granted.

Exception.

129 Q. You mentioned the fact that you made an agreement with the Racine Knitting Company on or about October 15th, 1901 which has been offered in evidence marked Exhibit "D". I ask you whether you made a similar agreement with reference to the business at Stevens Point? A. Covered all the business of the Racine Knitting Company, wherever it might be.

Q. Entire business done under that same agreement was it? A. Yes sir.

Q. Has your company since it began business in October, 1901 had any other warehouse or warehouses socalled in the City of Racine? A. No sir.

Q. You don't claim that you have put up any sign on this machine shop indicating that it was a Security Company warehouse do you on the outside of the building? A. No sir, we had no right to put it on the outside because we did'nt occupy the whole building.

It is Admitted that the property described in Exhibit "A" is property owned by the Chicago, Milwaukee & St. Paul Railway Company and was so owned at and prior to the 15th of October 1901.

Q. You paid no rent for this property which you claim? A. We have an acknowledgement of the rent for the period.

Q. I asked you if you have paid any rent? A. We have a legal receipt for the rent.

Q. I asked you if you paid any rent? A. Not in dollars and cents.

Q. Whatever rent was paid to the Milwaukee & St. Paul Railway Company for the use of that building was, paid by somebody else, not by your company? A. Yes sir.

Q. Have you with you the letter or letters which first passed between yourself and the Racine Knitting Company with reference to the beginning of this warehousing company by the Security Company here at Racine? A. Yes sir, but not here. 130

Q. You hav'ent them here? A. No sir.

Q. What is the reason you did'nt bring them with you? A. I did'nt understand I was called upon to bring them.

Q. Did'nt you receive a notice to produce all letters regarding this business? A. Not at this hearing.

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anks.

Q. Well the notice required you to produce them when the hearing took place. A. I understood these papers were to be produced at the Court at Milwaukee.

Q. It said at the hearing of this petition did it not? A. If I understand it right this hearing had'nt been ordered at the time these papers were received.

Q. No date of hearing had been set at that time. A. I did'nt understand that that was to be presented at this hearing at all.

Q. You hav'ent brought with you any of the letters then? A. I have a few letters that I have had on my desk, not with a view to bringing up a consecutive correspondence.

Q. Was that business begun at the instance of the Racine Knitting Company or of the Security Warehousing Company? A. Begun at the instance of the Racine Knitting Company, applications made by them through us to take the property over and issue receipts for it.

Q. You say your Company had an office in New York and one in Chicago? A. Yes sir. Their district office in Chicago. District offices in various cities of the country.

Q. Has it any office in the City of Racine? A. No sir.

Q. Has it ever filed any declaration in the office of the Register of Deeds of Racine County or of Portage County, Wisconsin that it, proposed to do a warehouse business in this state?
131 A. Not that I know of sir.

Q. You never had any key to the outer door of the warehouse building at Stevens Point belonging to the Racine Knitting Company, did you? A. No sir, personally I had no key.

Q. Or your Company? A. We consider that our custodian is a representative of the company and that they hold the keys to the outer doors of all premises, that is the understanding at the beginning.

Q. Well now you don't know of any keys to the outer door of that warehouse except those testified to by Miss. Eilers yesterday? A. No sir.

Q. And you dont know of any possession that your custodian or the company ever had except such as she testified to? A. Not now no sir.

Q. You attempted to get a key to that warehouse in September and October of 1903 and were refused? A. I attempted to have sent to Chicago. I was aware that Miss. Eilers had the key to the outside door and was continuously in the habit of using it.

Q. Did you ever see Miss. Eilers in possession of that key? A. No sir I don't know that I did.

Q. You dont know of any other possession than such as she testified do you? A. No sir I do not.

Q. You asked her to get a key for you and send it to Chicago? A. I asked her to get the key to the door and send it to me.

Q. You thought she had it in her possession? A. I did.

Q. And asked her to get it? A. I asked her to send me a key to the premises, I did'nt care whether it was the original key or one that would pass the lock. I knew that the company required to enter the premises.

132 Did'nt you write Miss. Eilers in October 1903 that the getting of a key to the outer door of this warehouse had been overlooked by you? A. Yes, when I was there I did write her that I think.

Q. Did you say when you were there? A. Yes sir I think I did. I am not sure about that correspondence, quite a while ago.

Q. You never had any key to the outer door of this machine shop did you? A. Nobody did. Never was locked.

Q. It is a fact, is it not Mr. Banks that in order to enter that building where these fenced enclosures were, you had to pass through first the round house, and then through this eastern entrances which is marked x, you first had to pass through the railroad company's round house which extends on east, and you cannot get to this entrance without passing through the railroad company's round house. A. There is no round house in front of this door.

Q. You are sure of that are you? A. So far as seeing any engine is concerned, I was'nt aware a roundhouse consisted of anything but where the engines were.

Q. You come from the open yard right to this door? A. Yes sir.

Q. Sure of that? A Yes sir. Outer door of the building, and then we pass from a second door into our place.

Q. Then you now state that you don't go from the open yard
direct to this enclosure? A. Not to my premises, first door of the
general premises occupied by the Chicago, Milwaukee and St.
Paul. I understood that to be a machine shop. If a round house
simply a misunderstanding of mine in character of that build-
133 ing and we did'nt have a lease of that portion of the building,
and did'nt understand that it was ever locked.

Q. What is the second door that you now refer to. Do you mean the door which goes into these fenced enclosures? A. Into the general first floor of that building, part of which the fenced enclosures occupy.

y of Banks.

Q. When you were in that building for the first time in September, 1903 you found a large quantity of goods of the Racine Knitting Company in this outer room, outside of this enclosure? A. There were some goods, I dont remember how many now.

Q. Did you examine all the goods in these enclosures? A. Yes sir.

Q. Did they all have your Company's tags on? A. I dont think they all had. The lots were divided in certain number of cases, and the cases were all numbered with what is known as Case Number, and one or more cards on each of the lots, which indicate the number of cases in the lot.

Q. Did you examine the lot numbers? A. Yes sir.

Q. Was there any lot numbers there that were not included in your warehouse receipts? A. I don't know that there were, there may have nee one or two cases outside.

Q. If you examined them all you ought to know? A. I did know at the time, but I don't recall now that there were any goods in there that were not covered by our receipts. There were occasionally goods that were released that were not taken out immediately. Left with the custodian whether to leave them or leave them there temporarily for convenience.

Q. Of the Racine Knitting Company? A. Discretion of the custodian.

Q. For the convenience of the knitting company? A. Yes sir, for the safety of the Knitting company.

134 Q. What do you mean by releasing them? A. The warrants surrendered, and we issued delivery orders to the custodian, and that goods remained in there remained there by sufferance, at the risk of the Racine Knitting Company.

Q. Did you authorize the Racine Knitting Company or your custodian, or anybody else to remove goods from those enclosures until the releases were issued by your company to them? A. No sir we did not.

Q. These warehouse receipts after they were taken up were issueable still or transferable to other parties were they not until you issued delivery receipts? A. I dont understand the question.

Q. Say for instance that this knitting company took one of those warrants and deposited it as collateral to a note subsequently and received back into its own possession the warehouse receipt. That warehouse receipt could still be transferred by it to third parties? A. It was negotiable same as any paper.

Q. Your method required those goods to remain there until the delivery receipt was issued? A. Yes sir.

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Q. And in order to get the delivery receipt the warrant had be returned in to you? A. Yes sir.

Q. You presented bills from time to time to the Racine Knit-ig Company for your charges in connection with this business l you? A. Yes sir we did.

Q. Did you bring copies of those bills with you? A. I did not .

Q. I now hand you twenty-one bills purporting to have been ndered by Security Warehousing Company to the Racine Knit-ig Company and ask you if those are genuine bills presented to at company by your company and paid by the knitting Company. A. Part of them are paid.

Q. With the exception of the last one of August 31st, which is marked unpaid. A. We have no claim against the Racine nitting Company for storage prices prior to the last bill which e rendered them for the month of July.

Q. I ask you if those are the bills presented and paid by the mpany? A. Yes sir. I cannot remember whether this is the ly bill that is unpaid, I believe it was.

Q. You are referring to the one dated August 31st, 1903? A. es sir.

Q. That is a bill presented by your company to the knitting mpany, but you are not certain that it has been paid? A. I think has not been paid.

Bills offered in evidence and marked Exhibit "2".

Q. Mr. Banks in the examination of these bills, receipted bills e find that one is missing for the month of March, 1902, have u got a copy of that with you? A. No sir.

Q. Did you say that you did not bring any bills? A. I did'nt nderstand I was expected to bring them here. Intended to prere them in time for the Court at Milwaukee.

Q. Month of March Sixty Nine Dollars and some cents, that s the end of the quarter, probably contained bill for custodian's es, in addition to the storage charges. It may have included some avelling expenses for the inspector. If they did'nt pay charges r February it may have included their February charges.

Q. In the bill dated November 30, 1901 I see there is a charge $50.00 for amount of bonds C. T. S. D. & S. Co. bond J. W. mend, what do those initials stand for? A. It was a bonding mpany in Maryland and this fifty dollars is the amount paid the rety company. We paid the surety company for a bond on Mr. Amend.

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. Banks.

136 Q. Mr. Amend was the custodian? A. He was our custodian. City Trust Safety Deposit & Surety Company.

Q. The charges in these bills for custodians fees are the salaries of Mr. Amend and Miss. Eilers are they? A. Yes sir.

Q. As stipulated in the contract with them? A. Yes sir. The Racine Knitting Company.

Q. Specified in the contracts between your Company and these custodians? A. Yes sir.

Q. Upon what basis are these storage charges made? A. They are made upon the basis of manimum sum, certain charge for minimum sum of value of property that is paid and for cases of certain value we charge at a regular rate.

Q. No basis on the blank on the originals of the storing or number or quantity or weight? A. No responsibility we assume for the value.

Mr. Merton: Does the contract show that? A. Yes sir.

Mr. Merton: That is the best evidence then.

Q. In the bill dated January 31st, 1903 there is a charge $19.92 for travelling expenses? A. Yes sir.

Q. What was that for? A. That was the expenses of my trip to Stevens Point to inventory the property and take possession of the warehouse that was turned over to us.

Q. You charged that up to Racine Knitting Company did you? A. I did, according to contract our expense and value of the property stored. We considered it to be unfair to charge all alike, because have expenses incurred for certain parties that are not incurred for others.

Recess until 1:30 P. M.

137 1:30 P. M.

Q. What was Mr. Amend's business at the time you appointed him custodian? A. He was employed by the Racine Knitting Company, I dont know in what capacity.

Q. You knew that when you appointed him did you? A. Yes sir, part of the contract to furnish us a custodian, some man to act for us.

Q. And you also knew by the letter from Mr. Blake, H. S. Blake written previous to her appointment, that Miss. Anna Eilers was an employee of the Racine Knitting Company, and in general charge of its stock at Stevens Point? A. I dont remember I knew what she was in charge of. Knew she was in employ of the Racine Knitting Company.

Q. I show you what purports to be a carbon copy of a letter

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dated January 6th, 1903 addressed to yourself and unsigned, but in fact as we understand written by Mr. H. S. Blake and ask you if you received such a letter from Mr. Blake? A. I have no distinct recollection, that letter may have been received, but I would'nt be able to state positively about it.

Q. Will you please examine this letter which I now show you dated January 9th and ask you to refer to that in connection with the copy of the letter previously shown you, and ask if you now state that you did receive a letter to that effect from Mr. Blake? A. The correspondence so far as the reference of the dates, this is the 6th and that refers to the 8th, I don't see why that should be.

Q. Can you tell by referring to the contents? A. It don't necessarily follow that this letter is the one I refer to there for it speaks of Mr. Hays.

Q. Don't that letter speak of Mr. Hays? A. As I say I am not able to say exactly, but I presume that that correspondence was received.

Q. You hav'ent the original letter received from Mr. Blake to which this letter of yours of the 9th is a reply?—82—
138 A. I have it at the office probably, but I hav'ent it here.

Q. Have you any doubt about those two being the letter written by Mr. Blake to you and this being your reply? A. There is a question of doubt inasmuch as I cannot be certain.

Q. By comparison of the contents of the two letters what would you say? A. Just as I said before, that I presume that may be the fact but would'nt be able to state it as a positive fact.

Q. Well the letter of January 9th is the genuine letter written by you? A. Yes I wrote that letter.

Q. Was the method of business, character of business and the methods of conducting it by the Merchants and Manufacturers Warehouse Company which you mentioned in your testimony the same as that of the Security Warehousing Company? A. Same general plan, different in their management and some items of carrying it out, but same general plan was conducted.

Q. That company like the Security had no warehouse of its own? A. No sir.

Mr. Simmons: We offer those letters in evidence.

Letter from Warehouse Company to Knitting Co. Jan. 9th; Copy of letter from Knitting Company to Warehouse Company of January 6th, 1903. Marked Exhibit Number "3".

Q. And how was it with reference to this Guaranty Storage

Company, was that carrying on business of a similar nature and in a similar way?

Objected to.

Referee: He may answer.

A. Yes sir.

Q. Who was it came to Racine at the time you began doing business with the Racine Knitting Company the time the
139 Security business began doing business with the knitting company? A. 1901. Mr. Wing.

Q. As far as yourself is concerned you knew nothing about when those signs were put up on the doors do you? A. I did'nt see them put up.

Q. And you don't know when those locks were put on there, or when the doors were locked do you? A. Only from the reports, verbally and written.

Q. Then when you stated that the signs were put up at the beginning of this Company's doing business there in October 1901 and when you stated that the locks were put on, and those enclosurers locked at that time you were stating facts not within your own knowledge and only what you had been told by someone else? A. What had been reported to me in writing.

Mr. Simmons: If that is not included in the former motion exclusion by the Court, I now move that his testimony in regard to putting up his signs and locking of the doors be stricken out, referring to Racine.

Referee: It will be so directed insofar as the facts are stated by the witness to be not within his personal knowledge

Q. You say that these locks belonging to the Security Warehousing Company and which you found on the doors of these enclosures have the name of the company upon them? A. Yes sir.

Q. That name is stamped in a darker color metal than the padlock itself is it not? A. No sir, it is a lighter colored metal. It is a light brass and the other is a bronze. The shell of the lock is made of bronze, and the original lock had the lettering cast in it at the time the shell was made.

140 Q. Do you mean to say that those locks down there where the name is found is lighter? A. It has tarnished.

Q. It is darker than the other now? A. It may have tarnished.

Q. It is pretty near copper color now is'nt it? A. It may be dark if it has tarnished.

Q. You cannot distinguish the name of the Warehousing Company without getting down and examining it very closely? A. Yes sir, as far as from here to this table.

Q. Can you? A. Yes sir I can, I did this morning. About four feet from where I am.

Mr. Simmons: We request that one of these locks may be removed and produced in evidence here as an exhibit.

Q. Will you permit one of these locks to be produced, or will you produce one of them here in Court as an Exhibit Mr. Banks? A. I am not prepared to say myself.

Q. I will ask counsel?

Mr. Robbins: No, I should not consent to one being taken off, they guard the property.

Q. Are you willing to have those locks produced or any one of them? A. As far as I am personally concerned.

Mr. Simmons: We will take the ruling of the Court on that if the Court please.

Referee: If there is no reason why a similar lock could'nt be substituted for one of those now in use I see no reason why that should'nt be done. I should'nt require you to remove one of those locks unless you see that you could put another one in its place and substitute a key with the present custodian, and of course the Receivers agree that no advantage be taken of such substitution.

141 Q. Did you give directions for the placing of the signs on these enclosures here at Racine? A. General directions.

Q. Did you direct them to be placed where they are now so for as the doors are concerned? A. I cannot remember exactly how I ordered them placed. The inspector who came up here and had it in charge used his discretion. I gave general directions as to pasting the signs where they could be conspicuously placed.

Q. Did you understand they should be placed on the doors facing outward A. Yes sir, all of it as far as I know. These signs were torn down and we kept them replaced. First one may have been torn and replaced later on. They may have remained there all the time.

Q. Why did you have them placed on the outside of the door facing out? A. So they could be seen outside as well as in.

Q. Now will you tell us why you had the card removed from the outside of the door and turned around facing in? A. So a man coming out of the place could see that sign as well as inside.

Q. Is that a place where the public was admitted? A. No sir.

Q. The public could'nt see that? A. Could see it from the outside through the paling.

Q. Not when you faced it around? A. Yes sir could look right through the paling and see it readily.

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Q. Well did you have any objection to having it outside o the door? A. No sir. We considered the lock that secured th door was sufficient notice at that time, had the company's nam on it.

142 Q. What was your reason of turning it around and pu ting it on the inside? A. I did'nt take it from the outsid of the door.

Q. You ordered it taken from the outside of the door? A. N sir I did not, never stated so.

Q. You say you had them placed on the outside of the doo down here so people could see it, why did'nt you have it place on the outside of the door up there? A. Different location an circumstances.

Q. What were the different circumstances and location whic induced you to make the difference up there? A. That was small place and well lighted, and this was a large place, and w were the only parties outside of the Racine Knitting Compan that were occupying the premises.

Q. The place was better lighted up there than down here? As far as the front door, and when the windows and doors we open it was better because the windows were clean. In the pla down here the windows were dirty, and light would'nt pass throu as readily and place four or five times as large.

Q. What were the different circumstances? A. Because oth parties occupied these premises, and none but Racine Knittin Company occupied premises up there.

Q. What did you put any sign up there at all for then? A. T indicate that we were lessees and occupants of the premises.

Q. What is referred to in this sign by "Bins placed at or ne the man hole at the top" A. These are general signs used in bo places, on elevators ordinarily when we use them for plain war house this line crossed off.

Q. No man holes or delivery chutes down there were ther A. No sir that part I will have to claim was not intended go in.

143 Q. This a sign of the old company with the Security Co pany pasted over it? A. Yes sir.

Q. Were there any bins or man holes or delivery chutes Stevens Point? A. No sir.

Q. You were informed I suppose during the time you we transacting this business with the Racine Knitting Company th the knitting company was using that lower floor of this wa

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W. H. B

house building, at least outside of the palings at the same time that you were occupying portions of the buildings? A. Yes sir.

Q. That is with your consent? A. There by sufferance yes sir.

Q. It is with your knowledge and consent was it not? A. Yes sir.

Q. Do you know what the method of removing goods was from the upper floor, placing them in there and removing them? A. Yes came down the elevator, also in that way.

Q. When you were there this morning, I think you said you were down there, you found your locks still on those doors? A. Yes sir.

Q. You found other locks there did'nt you? A. One.

Q. One on the elevator door, and one on each of the doors below? A. One on each of the two doors below.

Q. Those were not your locks? A. No sir.

Admitted that after the appointment of the Receivers and prior to the filing of these petitions herein the Receivers procured locks and placed them on the two doors and locked the same, doors x and y in Exhibit M and on yy in Exhibit N.

144 Q. When you said that you entered one of these enclosures this morning, or entered the premises this morning, you had reference only to the upper floor? A. That is all.

Q. Subsequent to the appointment of the Receivers and some time prior to the filing of these petitions in the United States Court were you called upon by Mr. Woley, attorney for the First National Bank of Chicago, with reference to some of these warehouse receipts? A. You say prior to the proceedings, yes sir.

Q. And did you authorize him to call on the Receivers and their attorneys with reference to obtaining those goods? A. The Receivers and their attorneys were not appointed at that time, no sir I dont think I did.

Q. Did'nt Mr. Woley apply to you after the Bankruptcy to get some goods? A. No sir.

Q. For a correspondent bank of the First National, not his own bank? A. That was in the McKeand deal.

Q. Well he called on you with reference to the goods covered by these warehouse receipts? A. I suppose you ask in connection with the First National Bank. He did call on me with relation to a bank who held receipts which were counted in this McKeand transaction and scheduled by the McKeand petition.

Q. Some of those now in dispute? A. Yes sir.

Q. And did you authorize him to call on the Receivers and

y of Banks.

their attorneys for the purpose of getting those goods if possible? A. I don't remember what was said exactly about that matter
I don't know that I authorized him to call except in a
145 general way that he take his receipts. I don't think I authorized him to do anything. I think he came up here of his own volition to get the goods. I don't recall the discussion, and the First National Bank had had something to do and later on in the hands of the McKeand Company to handle, as far as the petition was concerned.

Q. Did he submit to you the answer that he received from the attorneys for the Receivers. A. I don't remember of ever seeing an answer to it.

Q. Did Mr. Woley then represent that he came up here in the interest and with the authority of the Security Company, that was a mistake was it? A. I say I cannot remember exactly what that transaction was, but I know he was negotiating with relation to the receipts that the Arlington Bank held covering certain property that was negotiated by the McKeand interest. They were interested because the Arlington Bank was a customer.

Q. When he called upon you with reference to those receipts did'nt you give him authority to come up here for the Security Company and interview the Receiver or their attorneys? A. I don't know about my giving him any authority, I dont see where I could get my authority from. He had the receipts?

Q. The receipts were addressed to the Security Company were'nt they? A. Yes sir.

Q. And it was the Security Company which had undertaken to deliver those goods to the holder of the receipt was it not? A. Yes sir.

Q. Nobody else could deliver those goods? A. No sir.

Q. Well did'nt you then authorize Mr. Woley to come up
146 here for that purpose to secure the surrender? A. If he had
the receipts of course he could secure the surrender of the goods.

Q. He could'nt secure from anyone but the Security Warehousing Company? A. No sir.

Q. He came to you, did'nt he and then did'nt you authorize him to come to the Receivers on behalf of the Security Company and demand those goods? A. Well I don't remember the transaction in that way.

Q. Have you got any letters that I wrote to him I should be glad to see them.

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W. H.

Q. You don't now deny that you authorized him to do that? A. I don't admit it because I don't remember.

Q. I suppose you knew at the time you came up here to Racine and went from here to Stevens Point with the representatives of the Chicago Banks in September, 1903 that the knitting Company had issued a call for a meeting of its creditors in Chicago on the 5th of October, did you not? A. I think I did sir. Yes I recall that.

Q. And that was the reason why these Chicago Banks were anxious to get possession of these goods was it not? A. My recollection is that the First National Bank stated to me that they were afraid of the credit of the Racine Knitting Company and the results of this meeting and they preferred to have the goods.

Q. Did you see the notes held by Chicago Banks, did you know whether they had matured? A. No I did'nt see.

Q. What banks were they? A. First National Bank, and the Western Trust.

Q. The Western Trust and the First National? A. Yes sir

Q. Was'nt the State Bank represented? A. No sir the State Bank got their goods a week before that or more.

147 Q. I show you letter Number "1" October 1st, 1903 addressed to Charles L. Pugh signed W. H. Banks, and ask you if that is a letter written by you and mailed to Mr. Pugh? A. I think so.

Q. Will you examine the carbon copy attached to it, and state whether or not that was Mr. Pugh's answer to the letter? A. Yes sir.

Letter offered in evidence and marked Exhibit "4"

Q. I also show you letter bearing date October 5th addressed to Mr. Charles L. Pugh and signed W. H. Banks, and ask you if that is also a letter written and mailed by you to Mr. Pugh about the time it bears date? A. I think so.

Offered in evidence and marked Exhibit "5"

Q. Will you now examine these letters marked Numbers 1, 2, 3, 4, 5, 6, and 7 for Identification and state whether or not they are letters written by you to Miss. Eilers and mailed to her at or about the times they bear date? A. Yes sir I wrote those letters.

Q. Will you explain Mr. Banks what you mean when you wrote in this letter of September 25th to Miss. Eilers for a special reason I instruct you that under no circumstances are you to allow any individual in the premises enclosed in your main warehouse for which you have lock and key. You are probably advised what occasions this letter"? A. Yes sir, at this time the notice for a meeting

of the creditors of the Racine Knitting Company had been sent out, and whenever a concern gets into a difficulty of that kind and admits it themselves there is always more or less trouble with creditors, and they are very liable to get out executions and attachments on certain property that they may have an idea belongs to the debtor, and if they get their hands on it it gives us trouble to recover it. Have to go to expense and legal forms to defend the property, and
we wish to avoid all expense of that kind that we can, and Miss.
148 Eilers I presume under the circumstances knew that a creditors
meeting had been called. She was an employe of the concern in a responsible position.

Q. That was the special reason you refer to? A. That was the reason I refer to.

Q. There was no other reason? A. No sir.

Q. Did you learn of discrepancies in the goods which were removed by the Chicago Banks from the Stevens Point plant? A. I didn't learn there was any discrepancies in the Stevens Point goods, my information is there was no trouble with the Stevens Point goods, that they were in accordance with the manifests.

Q. You learned there was some discrepancy in some of the goods from one or the other of the warehouses? A. Yes sir.

Q. Well were'nt those discrepancies in union suits? A. It was a well known—

Q. Just answer the question please. Didn't those discrepancies relate to union suits and underwear? A. There was one report, I don't know of the fact myself, there was a report made that there was one irregularity in the marking of the card which contained a certain union suit.

Q. The union suits were made at Stevens Point, Wisconsin? A. Not these goods at all, these goods never saw Stevens Point and never were there.

Q. Where were they? A. I was informed they were made at Ripon.

Q. Do they make union suits at Ripon? A. So far as I know they did.

Q. They were sent up to Stevens Point and manifested
149 there were they? A. My information was that these union
suits they found in that condition were from the Racine warehouse. I dont know that to be the fact except from the general information. I never saw the goods out of the package and I dont know of my own knowledge that there was any union suits. Simply a rumor that I heard.

Q. Did'nt you hear the rumor from the representatives of the bank? A. No sir the Bank never told me. A man that was not connected with the bank.

Q. Did you state to Mr. G. E. McDill and myself in front of the Racine Knitting Company's office when you were last here at the time appointed for the hearing on the petition of the Trustees to sell the property and in explanation of the reasobs why the Chicago Banks had realized so small a sum from the goods, that the first box that was opened and inspected and which was marked men's size Number 40 contained a union sait eight feet long, and the next garment brought out was an infant size? A. I did not state that as a fact, I said that as an example. I stated that there was one union suit taken out of these cases that was said to be eight feet long, and one of the others a child's suit or child's vest, and it was marked something else, and that the goods had not been properly assorted. I did'nt state that it was marked Number 40 because I said for example it might be marked Number 40.

Q. That was merely an illustration? A. The idea I intended to convey was that the contents of the box was not in accordance with the mark on the outside.

Re-direct Examination.

Q. Did the Security Warehousing Company receive a fidelity bond covering Mr. Amend's conduct as custodian just as in the case of Miss. Eilers? A. Yes sir.

150 Q. Prior to the filing of the petitions by your Company had the Citizens Bank and the Hyde and Brittan Bank and McKeand demanded of the Security Warehousing Company? A. Hyde & Brittan Company had demanded and McKeand had demanded, and at that time we did'nt know the Citizens Bank of Mukwonago was a holder of the receipts.

Q. They demanded the goods? A. They demanded the goods under the receipts which we afterwards found that they held.

Mr. Merton: Since you found out they held the receipts they demanded of your these goods?

A. Yes sir.

of Amend. **JOHN W. AMEND** being first duly sworn on oath, testifies as follows:

Examined by Mr. Robbins.

Q. Mr. Amend what is your business? A. Assistant Manager for Racine Knitting Company.

Q. How long have you been such? A. Had charge of the manufacturing plants ever since their organization, that is about seven years.

Q. Where have you been located? A. At Racine and Beloit.

Q. Are you the same Mr. Amend who signed an agreement to act as custodian for the Security Warehousing Company the 15th of October, 1901? A. Yes sir.

151 Q. Do you know about the premises that are shown by Exhibit M and N? A. Yes sir.

Q. What kind of a building is that building that is covered by this lease to the Security Warehousing Company? A. Brick building.

Q. Is it a part of any railroad building? A. Yes, Chicago, Milwaukee & St. Paul Railway Company. Formerly occupied by them as a machine shop I believe.

Q. It has never been a part of the manufacturing plant of the Knitting Company has it? A. No.

Q. It is some distance from their place of business in Racine? A. Yes sir.

Q. Were you familiar with this building at the time that the lease was made to the Security Warehousing Company and warehouse receipts were first issued to the Racine Knitting Company? A. Yes sir.

Q. Will you describe what kind of—in the first place I will ask you if this Exhibit "M" is a correct drawing or diagram of the first floor of that building? A. I believe it is.

Q. Describe the kind of fencing or enclosure that made section "a" and "c" at the time when this lease was made? A. Enclosed by six inch boards, twelve feet high and having a space of about the same width of the board.

Q. Was the enclosure the same one that is there now? A. Yes sir.

Q. The enclosures have not been changed? A. No.

Q. The doors located in the same place, same doors that were there at the time you started? A. Yes sir.

Q. Is that true of the enclosure around the elevator space on the second floor? A. Yes sir.

Q. What is that made of? A. Same material and in the same way.

152 Q. Two doors on that floor? A. Two doors from the elevator, and one from the stairway.

Q. Now are those doors just the same now that they were when this was entered upon in 1901? A. Yes sir.

Q. How long have you acted as custodian of these premises? A. Since latter part of October 1901.

Q. I wish you would describe the doors x and y on M, just the kind of doors they were and whether they were locked and how? A. They were doors of same material of six inch boards, same space, swinging doors and locked by a padlock.

Q. Whose padlock? A. The Security Warehousing Company. I believe that when they began warehousing there were locks on there of the Merchants and Manufacturers, and later changed to the Security.

Q. Who had the keys to these locks? A. I did.

Q. Do you know of anybody else having them, more than one key? A. Not more than one key.

Q. Key to each door? A. Yes sir one key.

Q. And who has that key now? A. I have.

Q. You have had the custody of both these keys of that door during the whole time? A. Yes sir, excepting during my absence.

Q. Well how is it upstairs, are those two doors opening from the elevator do they have padlocks? A. Same thing.

Q. How about the door marked z? A. Same thing.

Q. How about the keys to those three doors? A. All had one key.

Q. One key opened them all? A. No one key for each door.

Q. You had that key? A. Yes sir.

Q. Do you know of the Racine Knitting Company having
153 any key to those doors? A. No sir.

Q. Have you ever known of their having a key to those doors? A. No.

Q. Have you known of any keys to either of these five doors other than the key to each that you had? A. No.

Q. Have those doors been open or locked during this period since 1901? A. They have been locked.

Q. Were you down there this morning? A. Yes sir.

Q. How did you find the doors this morning? A. Found them locked.

of Amend.

Q. How did you get into the upstairs this morning? A. One of the keys.

Q. You went in through the door z with your key did you? A. Yes sir.

Q. Is there an additional lock placed on some of these doors A. Yes sir.

Q. Which doors? A. Two downstairs doors, and one of the elevator doors.

Q. So that three of these doors now have two locks? A. Ye sir.

Q. Do you know by whom those locks were placed there? A By the Receivers I believe.

Q. How often have you visited these premises since October 15th 1901? A. Probably on an average twice a week during my stay a Racine

Q. And how continuously have you been in Racine since then A. I was at Racine steady until May, 1902 and from that tim on I was at Racine once a week, made it a point to be at Racine once a week.

Q. Well where were you after 1903? A. Beloit.

Q. Now I wish you would explain the condition of thes
154 premises as to signs at the time this lease was made, and th
receipts issued in the latter part of 1901. You were in the employ of the knitting company, but spending your time at Beloi mostly? A. Yes sir, but I was in Racine twice a week.

Q. What do you mean two days in the week? A. No two different times.

Q. Now explain the signs put on the premises at the start? A There were six signs to start. Three small ones, probably 5x7 an three large ones which were placed on the inside, one on the secon floor and on each of the lower floors.

Q. Well were any of those signs like Exhibit "O"? A. I believe they were identical.

Q. Where were the signs like Exhibit "O" placed at the start A. On the outside of the door, about the center.

Q. Of which door? A. Of both doors of the lower enclosures and also one leading up the stairway.

Q. And how long did that sign remain on those two doors downstairs and z upstairs? A. Up to the present time. I found the on upstairs is torn off, but must have happened recently.

Q. How recently? A. Since October 5th, 1903.

Q. Now where were there any signs like Exhibit "K" placed o the premises? A. Threr were three signs very similar inside.

Q. Where were they placed? A. One on the upper floor was on the first cross beam East of the elevator. The one on the lower enclosure on the east end of the building.

Q. That is in section a? A. No in the other section.

155 A. In section c that was placed on the west wall of that enclosure.

Q. Could one standing at any point on the north of section c see this large sign that was pasted inside of section c? A. I think they could, it was placed about ten feet facing the inside.

Q. Now describe the other signs downstairs? A. The other sign was on the east wall of the other enclosure facing the same way, probably eight feet from the floor.

Q. In the east wall of section a facing inside? A. Facing inside north of the door.

Q. Now what signs, if any were there on the property stored inside? A. There was a small card 4x7 or 4x6.

Q. Similar to Exhibit "L"? A. Yes sir.

Q. With the printed side exposed? A. Yes sir.

Q. And how were these, what contained these goods that were stored inside, were they in boxes? A. Yes boxes, some hosiery in bundles I believe.

Q. And how many of these were used? A. Well originally one o na lot, later we put one on each case.

Q. Well were those signs so placed that anybody in this enclosure could see the signs? A. Yes sir.

Q. How was the light of this building, daylight? A. Daylight, yes sir.

Q. So persons could read the sign? A. Yes.

Q. Now I will ask you to state what was the condition as to signs beginning October 15, 1901 in the second story? A. Well one sign on the cross beam east of the elevator

Q. At the place noted on the sign on beam? A. Yes that is it. That faces the elevator, faces the west.

156 Q. And you have already stated there was a sign like Exhibit "O" on the door z placed there at that time? A. Yes sir.

Q. Now was there a sign on the elevator shaft? A. Yes sir, on the outside of the elevator shaft, facing the elevator.

Q. What kind of a sign was that? A. Similar to "K"

Q. Now how long did those signs continue to be where you have indicated? A. Up to the present time they still remain there.

Q. So that the signs you have described were placed on there imof Amend

mediately after making the lease in 1901 and have remained there continuously since? A. Yes sir.

Q. Were the goods on the second story in boxes the same as on first? A. Yes.

Q. Were those little signs, Exhibit "L" placed on the boxes upstairs, second story? A. ·Yes sir.

Q. Is there a door at the point marked "B" in this diagram? A. Yes sir.

Q. Was that door a door that was locked or left open? A. Left open at all times.

Q. So that anybody could get in? A. Yes.

Q. Did the Chicago, Milwaukee & Sy. Paul Railroad use parts of this building? A. Yes sir.

Q. During the time we are talking about? A. Yes sir.

Q. Has the J. I. Case Threshing Machine Company used some of the space in there? A. Yes sir.

Q. Is their space as indicated on this plat? A. Yes sir

Q. Do you know any way by which any person could get into the enclosures section a and b or into the second story without either committing an act of force or having the doors of which you had keys opened? A. No sir they could'nt.

157 Q. During this period were the signs you have described so placed on these premises that persons entering the outer room could see in whose possession these enclosures were? A. Yes sir.

Q. Were you present when these goods were put into these enclosures? A. As a rule, yes.

Q. At the time that the receipts of the old company were surrendered and new ones issued do you know about that? A. Yes sir.

Q. Did you make reports to the warehousing Company from time to time? A. Yes sir.

Q. How often? A. About once every thirty days.

Q. Where were those reports mailed to? A. To Chicago.

Q. To the warehousing company's office in Chicago? A. Yes sir.

Q. Were you familiar with the receipts that were issued on these goods by the warehousing company, did you have anything to do with checking them up? A. After the receipts were received?

Q. Yes after the new lease was made did you personally check up the goods? A. The number of cases, yes made out an application for them.

Q. At that time were receipts issued for all the goods in the enclosures, I mean when they changed over to the new October 15, 1901? A. They were changed there at that time, they would be released and re-manifested and take out new receipts and a great many of the goods leased by the old company. Released and as fast as they were released replaced a portion of them with the Security Warehousing Company.

Q. Was new receipts issued for them? A. Yes sir.

158 Q. Now from time to time do you know whether some of these receipts were surrendered or not? A. I presume they were.

Q. And some of the goods released? A. Yes sir.

Q. And what was the form in which that was done so far as you were concerned? What steps were taken? A. I got notification from the Security Warehousing Company in Chicago to deliver certain numbers and certain amounts.

Q. And that was done? A. That was done.

Q. Were any of those goods allowed to remain in the premises for any length of time after you received that notice? A. Yes sir.

Q. That was at whose request? A. Well they were left there, I dont know at anybody's request, left there for safe keeping.

Q. So that in that way there were at times goods there for which there were no outstanding receipts? A. Yes.

Q. And that is the way it happened? A. Yes.

Mr. Simmons: I guess I will ask you to let the witness testify.

Q. How often did that occur Mr. Amend? A. I think there were goods in there at all times that were released but had'nt been taken out.

Q. Did you receive from the Security Warehousing Company the five dollars a month mentioned in this contract? A. Yes sir.

Q. How was it paid to you? A. Quarterly.

Q. During the entire time beginning with the 15th of October 1901? A. Yes sir.

It is admitted that all the receipts referred to in the petition of the Security Warehousing Company and introduced in evidence here are endorsed in blank by the Racine Knitting Company either by H. S. Blake, Treasurer and Manager or by D. R. Johnson, Cashier.

159 Resolution of the Racine Knitting Company authorizing Johnson as Cashier to make certain signatures and endorsements therein mentioned offered in evidence and marked Exhibit "6".

It is admitted that the warehouse receipts set out in the petition of McKeand other than the five produced by the Citizens Bank of Mukwonago are in the possession of petitioner McKeand, and are produced by him on this hearing.

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W. Amend.

Cross-Examination by Mr. Simmons.

Q. I think you said you had been Assistant Manager of the Racine Knitting Company for about seven years Mr. Amend? A. Yes sir.

Q. So that you had that position in October, 1901 did you when this contract was executed between yourself and the Security Warehousing Company? A. Yes sir.

Q. Did the representative of the Security Warehousing Company who came up here to make the business arrangement with the Racine Knitting Company know that fact? A. Yes sir.

Q. You were then located wholly here at Racine? A. Yes sir.

Q. And is your home here in Racine still? A. Yes sir.

Q. You are married and have a family here? A. Yes sir.

Q. What were your duties as Assistant Manager? A. Took care of the manufacturing of hosiery of Racine Knitting Company. Buy supplies, yarns and all material necessary.

160 Q. And after the supplies were purchased did you check them up when they were delivered and have charge of them after they came into the possession of the company? A. Yes sir.

Q. Were all of these fenced enclosures made at one time down there I mean at this railroad machine shop? A. I believe they were not, but at the time, 1901 when the Security Warehousing Company took possession they were all there.

Q. And at that time who occupied the space North of section c and extending from the east end of that warehouse building to the east end of section a and the space runing southerly from that between section c and the part indicated as occupied by the Case T. M. Co.? A. That part occupied by the Racine Knitting Company, and the St. Paul Railway.

Q. What part did the St. Paul Railway Company use? A. Used a corner over in the Northeast corner, and kept such things as probably a bundle of waste, or two or three barrels of oil and few supplies.

Q. This portion in the Northeast corner was sort of an office room, it is'nt shown on this plat? A. Yes.

Q. That was locked? A. Yes that was locked.

Q. The balance of this open space was occupied by the Knitting Company was it? A. Yes, also by St. Paul Railway, small supplies.

Q. Aside from that it was used by the Knitting Company? A. Yes sir.

Q. For storage purposes? A. Storage purposes.

Testimony o
John W. A

Q. What did they have stored in there? A. Raw material, packing cases, and also some finished stock for a time.

Q. And how long had they been using it for that purpose? 161 A. Probably two years before that, since 1899.

Q. And had they previously to the building of these fenced enclosures occupied that space also for storage purposes? A. Yes sir, a portion of it.

Q. How was it on the second floor, been in the habit of using that for storage purposes too? A. No I dont remember that they did.

Q. Was it occupied by anybody else? A. Another warehouse was occupied by B. B. and A. J. Blake before the Knitting Company and I believe they kept buggies on the second floor. The elevator was put in there for such purpose.

Q. B. B. and A. J. Blake were officers of the Knitting Co.? A. They were yes sir.

Q. Do you know what rent was paid by the Knitting Company for the use of this building? A. I do not.

Q. You had nothing to do with that? A. No sir.

Q. Have the Knitting Company ever used any part of the building indicated as now occupied by the J. I. Case T. M. Company? A. Yes at one time several years ago.

Q. For the same purpose, storage of raw materials and manufactured goods? A. Yes sir.

Q. And in what way are these enclosures constructed, that is to day to what are the upright boards fastened? A. To 2x4 going from post to post. One nailed to the floor and one on a post crossing and then nailed up and down.

Q. Are those cross post that are above the floor equal at the top of these boards? A. No sir three fet from the top.

162 Q. And the boards are nailed on the inside of those 2x4 are they not, nailed on the side towards the interior of the spaces? A. I believe they are.

Q. It is a fact is it not Mr. Amend that the space outside of these fenced enclosures are at times considerably crowded with goods of the knitting company was it not? A. Formerly I believe it was.

Q. What do you mean by formerly? A. Probably two years back. Last two years there was very little.

Q. It is some time since the Security Warehousing Company began doing business with the Knitting Company, that was the case was it not? A. Yes sir.

Q. And in consequence of the fact that it was crowded have goods of the Racine Knitting Company which were not manifested

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n W. Amend.

placed inside of the enclosures? A. They were not taken out account of the inability to be handled at the office building wh they really belonged.

Q. Is'nt it a fact that some of the goods were taken from outsi and put in on account of the crowded condition? A. No sir.

Q. I will ask you this, if it is'nt a fact that goods were tak from the outside and put in in consequence of property being sto there? A. That is why they were put in there or left in the They were left in for that very reason.

Q. Some were put in from the outside were they not? A. I dont believe they were. I think everything in there was at time manifest.

Q. You said that as your opinion you are not prepared to st positively that such was not the case? A. I am not prepa
163 to state because I dont know. Might have been put in there

Q. You stated that those keys had remained in your c tody when you were in Racine, the keys to these fenced enclosur A. Yes sir.

Q. Where was it left, or in whose custody when you were here in Racine? A. Mr. Harry Netzinger.

Q. He was the Shnpping Clerk I believe of the Knitting C pany was he not? A. Yes sir.

Q. And after May, 1902 you were in Beloit most of the ti were you not? A. Yes sir.

Q. So that Mr. Netzinger might have put goods in there a gr many times without your knowing it? A. Yes sir.

Q. When you said that you did'nt know of the Racine Knitt Company having any key you meant that you did'nt know of key other than these given to ou by the Security Warehousing C pany? A. Yes sir.

Q. What was the method of taking good to the upper floor that building for storage and removing them from the upper flo A. An elevator.

Q. About what is the space from the top of these upright boa forming these enclosures to the ceiling of the room on the lo floor? A. Possibly eight feet. I believe it is twenty foot ceil and I believe they are twelve foot boards.

Q. And that is all open? A. Yes sir.

Q. Does that apply to both floors? A. No the other floor boarded way up. It is a lower ceiling, only about ten or twelve up there.

Q. You stated that these small tags, similar to Exhibit "I." w at first placed one on each lot? A. Yes sir.

Testimony of John W. Am

Q. And you also stated that afterward you, some time later you put them on each case? A. Yes sir.

164 Q. I take it from that that the lots included several cases? A. Yes sir, anywhere from one to twenty.

Q. Then according to your usual practice you would put only one tag on twenty cases, on one of the cases of the twenty? A. Yes the tag showed there was twenty cases to that lot, gave the number.

Q. The others would not be tagged at all? A. No marked by number and contents.

Q. Was there a space between different lots? A. Yes sir.

Q. How much? A. Instructed to leave not less than six inches.

Q. How high would the goods be piled in this enclosed spaces down below? A. That is hard to say, large cases only piled two high, small ones four, probably would run eight to nine feet. Not over that.

Q. How long has the Case T. M. Company been occupying this space as marked on the plat as occupied by them now? A. I believe something over a year, a year and a half, can't state definitely.

Q. You stated that you were present as a rule when goods were put into these storage places and I infer from that that you were not present always when that was done? A. That is right.

Q. Who put them in or was present when they were put in? A. Mr. Netzinger had an order to put in certain number of cases by number.

Mr. Robbins: Order from whom?

A. From me.

Q. Did you give him a written order? A. A written order.

165 Q. You spoke about a notification received by you from the Security Warehousing Company when goods were released from time to time, were those notices in writing? A. Yes sir.

Q. And what was the term used to describe them? A. By exhibit or lot numbers.

Q. What was the notice called? A. Delivery order.

Q. Issued by the Security Company? A. Yes.

Q. Now as I understand the method of doing business the knitting company would turn in these warrants or storage receipts to the Security Company and have them cancelled, and then the Security Company would send out this delivery order and then you were authorized— A. To deliver the goods.

Q. Turned the goods over to the Company? A. Yes sir.

Q. You stated that you were paid the five dollars a month, custodian's salary by the Security Company? A. Yes sir.

Q. How often? A. Every three months.

ony of W. Amend.

Q. You knew that this was charged up to the Racine Knitting Company did you not? A. Yes sir.

Q. And was paid over to you by the Security Company after the Knitting Company had paid the Security Company? A. I dont know as to that, they made regular payments every three months.

Q. Up to what time did they pay you at this rate? A. Up to the present time. Up to January 1904.

Q. You are still drawing pay from the Security Company? A. Yes sir.

Q. What was your salary from the Knitting Company? A. One Hundred per month.

Q. And you have been working for the Receivers and the Trustees since the knitting company went into Bankruptcy. A. Yes sir.

166 Q. And as such have had charge of the Beloit Factory yet I suppose, and the mail order business? A. Yes sir.

Q. Did you put up these card signs yourself Mr. Amend? A. I did not.

Q. Did you see them put up? A. Yes sir.

Q. Who put them up? A. I believe Mr. Wing put them up or Mr. John C. Banks.

Q. Who is he? A. Brother to present Mr. Banks.

Q. Also representative of the Security? A. Yes sir, they took care of the first two or three transfers that were made.

Q. The only way of access to any of these so-called storage places was through this part of the building which was used by the Racine Knitting Company after storage of goods in manifest was it not? A. Yes sir.

Re-direct Examination.

Q. How did Mr. Netzinger come to have the keys? A. I took them over to him when I go away until my return.

Q. You appointed him you selected him custodian while you were gone? A. Yes sir.

Q. And when you came back how was it? A. I had the keys when I came back.

Q. Did you give any instructions to Mr. Netzinger about the property? A. Yes sir.

Q. What did you tell him?

Objected to as incompetent and immaterial.

Referee: He may answer.

A. Give him the regular instructions such as I had received

Testimony o
John W A

to deliver only goods upon instructions from me such as were re-
leased, manifest. The balance he had free access and left the
167 key for that purpose, that he might go and get them as the
mail order department required.

Q. Now do you know of any goods being removed from these enclosures of the warehousing Company at any time without these delivery orders? A. No sir.

Q. When you came back at these times that you left Mr. Netzinger in charge did you go into the premises? A. Yes sir, before going away I did.

Q. You say that you gave him written orders to put certain goods in there? A. Yes sir.

Q. Now at any of these times that you went into the premises after you had been away did you observe that any goods had been put in other than the ones you gave him order for? A. No didn't notice any.

Re-cross Examination.

Q. That is true as you stated that you didn't pay any attention to that matter? A. That is true.

Q. Yo said that one object in leaving the key with Mr. Netzinger was that he might go in and get goods that were not manifested that were in this enclosure for the use of the mail order office? A. Yes sir.

Q. He wouldn't be acting for the Security Warehousing Company in doing that, would he?

Objected to. Objection sustained.

Q. Did the Security Warehousing Company have any contract with Mr. Netzinger as custodian? A. I think not, no.

Q. What kind of an appointment did you make with him, verbal? A. Verbal, just merely appointed him.

Q. How many times did you appoint him custodian? A. Mere-
ly turned the keys over to him every time I went away. Didn't
168 give him the same instructions every time, he understood what
he was to do.

Q. When did you make what you call the appointment with him as custodian under you? A. Some time in the summer of 1902, I believe.

Q. That was the time you left the keys with him the first time? A. Yes about that time.

Q. Told him what your instructions were from the Security Warehousing Company? A Yes sir.

Q. He drawing a salary as a custodian or sub-custodian? A. No sir.

y of V. Amend.

Q. How long did he have the key at one time? A. Possibly two or three days, I guess the longest a week, because I was always in a Saturday night.

Q. Then you would take it possibly and go down and look at the premises and give it back to him when you go away? A. I would give back to him when I went back to Beloit, usually went back Monday morning.

Re-direct Examination.

Q. What were the goods he went in to get for mail order? A. They were released.

Q. Remained in the enclosure? A. Remained in the enclosure and never taken out, just moved to one side.

Q. Same as you have explained earlier in your testimony? A. Yes sir.

Re-cross Examination.

Q. Was he authorized by you sometimes to take the goods from those manifested cases before the delivery order was received? A. No sir he had no authority to do that.

Q. Well he did do it? A. I understand he did in one or two cases and substituted, but he had no authority to do it.

169 Q. There was nothing to prevent his doing it at any time he pleased was there while the key was in his possession?

Objected to. Objection sustained.

y of ger.

HARRY NETZINGER being first duly sworn on oath, testified as follows:

Examined by Mr. Robbins.

Q. Where do you live? A. Racine.

Q. And what concern are you connected with? A. Racine Knitting Company.

Q. And how long have you been? A. Little over two years.

Q. In what capacity? A. As shipping clerk.

Q. Are you the Mr. Netzinger that Mr. Amend referred to as given the keys? A. Yes sir.

Q. State what there was about that? A. Why he would leave the keys with me when he would go to Beloit.

Objected to as immaterial and incompetent. Taken subject to objection.

Testimony Harry Netzing

Q. And when he came back what become of them? A. I would give them back to him.

Q. What keys were they he left? A. The keys he always had.

Q. Keys to the enclosure of the warehousing Company? A. Yes sir.

Q. How many keys did you have do you remember? A. I think it was four.

Q. Now what did you do with the keys when he gave them to you? A. I used to do down there occasionally, we had stock in there that was'nt manifested, and I used to have to go down there and get some of that occasionally.

170 Q. What did you do with the keys? A. Kept them in my possession and give them back to Mr. Amend.

Q. That was the way it was done back and forth? A. Yes sir.

Q. They came to you from Mr. Amend and you kept them, and give them back? A. Yes sir.

Q. Between the time his giving them to you and his giving them back they were in the possession of Mr. Amend? A. Yes sir.

Q. He give you any instructions? A. He told me he would leave them with me so I could take care of them in case I wanted to go in there I would have the keys to get in.

Q. Did you know Mr. Amend was acting as custodian of the Warehousing Company? A. Yes sir.

Q. And held the keys as custodian of the warehouse company? A Yes sir.

Q. Now whenever you went to these doors were they open or shut? A. Closed.

Q. Was there any way of getting into them without using the key you had? A. No sir.

Q. During the time you knew these premises was there any way of getting into the enclosures of the warehousing company either on the first or second floors either by act of force or unlocking the doors with these keys? A. No sir.

Q. Did you put any goods in the premises? A. Yes sir.

O. On whose orders? A. I put in some on Mr. Amend's orders.

Q. Were the orders in writing? A. Yes sir.

Q. Now do you know of any goods being put into thise premises while you had the keys other than those you put in on his order?

A. The stock from over here is there, stuff that has been re-
171 leased.

Q. Do you know of any stuff that was put in there while you had the keys other than the stuff that Mr. Amend gave you orders about? A. No sir.

Y. You say there was property in there that had been released from the warehouse receipts? A. Yes sir.

Q. You knew what that property was? A. Yes sir.

Q. That property you went in and took out while you had the keys? A. Yes sir.

Q. There is a door (look at that drawing Exhibit "M") was it locked? A. That was never locked.

Q. Do you know of there being any lock to door v? A. No sir.

Cross-Examination by Mr. Simmons.

Q. You commenced working for the knitting company in October 1901 I believe Mr. Netzinger? A. Yes sir.

Q. And you occupied the position of shipping clerk for the knitting Company? A. Yes sir.

Q. Is it a fact that the knitting company have large quantities of goods which were not manifested in that same building down there? A. Yes sir.

Q. Were there large quantities of yarn and other raw materials and manufactured goods and packing cases in this open space outside of the fenced enclosures on the lower floor belonging to the Racine Knitting Company? A. There wasn't any yarn or anything like that.

Q. Manufactured goods and premium goods? A. We had premium goods and empty cases and that is all.

Q. No manufactured goods? A. No sir.

Q. And no yarns? A. No sir.

172 Q. Where did you keep your yarns? A. I never had any yarns, that yarn we did have was manifested and that was upstairs.

Q. What were these premiums? A. There was fourteen or fifteen of these sewing cabinets, and about nineteen desks down there, and I guess that is all.

Q. These premium goods consisted of merchandise of various kinds? A. Yes sir.

Q. Which you gave away or offered as premiums in connection with the mail order business? A. Yes sir.

Q. Now is'nt it a fact that the Racine Knitting Company had large quantities of its own goods and which were not covered by manifests in this particular room on the second floor? A. Yes sir.

Q. What were they put there for? A. We would leave them outside of the fence, but people used to steal them, and put them in there for safe keeping.

Testimon
Harry
Netzin

Q. And those goods were brought from down below on the first floor and put up there for that purpose? A. Yes sir.

Q. And is'nt it a fact that some goods were also put in for the same purpose into these enclosures on the lower floor? A. There wasn'nt any to put in, it was stock that had been released, and we did'nt have room for it up here, and we left it in there.

Q. Are you sure there were'nt any put in there, what makes you sure of it now? A. Because I know it. When the stuff was released I generally had to handle it. Put it to one side.

Q. Never taken out? A. No sir.

Q. Always left in? A. Yes sir.

173 Q. So there was goods at all times inside of those fences that were the Knitting Company's property free from manifests? A. Yes sir.

Q. Now Mr. Netzinger is it not also a fact that in this mail order business you were frequently short of goods necessary to fill the order outside of manifest stock? A. Yes sir.

Q. And is'nt it also a fact that you went down there quite often and substituted goods from the office for these goods covered by the manifests?

Objected to as incompetent.

Referee: He may answer.

A. Yes sir.

Q. Did that occur sometimes as often as two or three times a day? A. No sir.

Q. At times, I mean? A. No sir.

Q. Now just reflect. Did'nt you tell Mr. Hand and myself that at some times you went down there two or three times a day? A. That was stock that was released.

Q. What do you mean by released, under delivery orders? A. Delivery orders received for them, put them to one side, that is the reason we went down there two or three times a day.

Q. Did'nt you take goods as often as two or three times a day out of the cases for which no delivery orders had been received? A. No sir.

Q. How often, two or three times a week? A. Not that often.

Q. Well how often? A. Why in the period I have been there, happened about three or four times.

174 Q. You did though whenever you needed the goods and did'nt have them outside of manifest stock did'nt you? A. Yes sir.

Q. Now you remember telling Mr. Hand and myself about your method of taking goods down there and interview at my office this morning don't you? A. Yes sir.

Q. Did'nt you state to us that you took those goods out of cases which you were told had been bought out, but for which no delivery orders had been received?

Objected to as not fair cross examination.

Q. Did'nt you say you were told that they had been bought out but no delivery orders or releases had been received? A. Yes sir.

Q. You did state that? A. Yes sir.

Q. And was that a fact? A. Yes sir.

Q. And that, you stated to us, occurred sometimes as often as two or three times a day? A. I don't think I said that. I meant the stuff that was released, that is bought out.

Q. Did you sometimes go down there with such quantities that you took a teamster along to make the substitution? A. Yes sir.

Q. And who was the teamster? A. Mr. Cook.

Q. That is to put goods, substituted goods for those inside of the fences here, and take others out in their place? A. Yes sir.

Q. Now will you please tell me Mr. Netzinger at this time why you took those goods down there and substituted them for the goods? A. It happened to be some sizes that they did not have, and they were in these cases and we took goods down.

Q. If the goods down there had been released you did'nt have to substitute did you? A. No sir, I am not referring to that.

175 Q. I am asking you, the goods you took down there and substituted were goods that had not been released were'nt they? A. Yes sir.

Q. You had these keys when the company failed did you not? A. Yes sir.

Q. And after the Receivers had been appointed you gave them up to Mr. Amend? A. Yes sir.

Q. Were the goods not covered by any of these manifests or warehouse receipts inside of these fence enclosures at the time of the failure? A. Yes sir.

Q. Whereabouts were those goods located? A. Upstairs.

Q. You are not sure abou there being on the upper floor are you, all of the unmanifested goods? A. Yes sir.

Q. Were'nt there any of these released goods covered by the manifest that were on the lower apartments? A. No sir they were all out.

Q. When were they taken out? A. I could'nt just exactly tell when it was.

Q. Is'nt it a fact that the roof to that building leaked? A. Yes sir.

Q. And did'nt you for that reason put some of these goods down on the lower floor inside of these spaces? A. No sir.

Q. Would'nt a leaky roof be liable to damages the goods? A. Moved them around upstairs. Room enough up there.

Re-direct Examination.

Q. Did you say that this substituting goods, taking goods down from outside and taking them in how many times did that occur? A. Only happened three or four times during my time.

Q. That was when Mr. Amend was away and you had the key? A. Yes sir.

176 Q. And about how many goods did you take out? A. Oh about ten dozen at a time.

Q. What kind of goods were they? A. Why mostly gentlemen's hose.

Q. Socks? A. Yes sir.

Q. And what did you put back in their places? A. Same things, only different size.

Q. Same kind of socks? A. Yes sir.

Q. Now each of the two or three times that you did that was it a case of exchange of socks each time? A. I dont know what you mean.

Q. Did the goods that you exchanged were they socks each time? A. Yes sir.

Q. So there was no exchange of goods, except in the case of socks? A. Yes sir.

Q. And that took place about three times? A. Yes sir.

Q. And how many dozen socks at a time, same amount each time? A. Same amount.

Q. And did you open the boxes to take them out? A. Yes sir.

Q. And put the others in to fill the boxes up? A. Yes sir.

Q. Was the same amount put in that was taken out? A. Yes sir.

Q. You said goods were always left in after they were released, what do you mean by that? A. We were crowded for room over here and only place we could keep them was to leave them over there until we had room over here to put them in.

Q. What I mean is how long did they remain in there after they were released? Are they there yet? A. No sir.

177 Q. What do you mean by saying they were always there? A. That was they were there as long as we didn't have any room up here, we had to leave them down there, that is only place we could put them until we had room over here.

Q. You dont mean they were always there, but they were there until there was room somewhere else?

Objected to.

Q. Now what about these goods that were taken up, from down stairs, how often did you do that, to the second story? A. Only did that once.

Q. And how much goods did you take up that time? A. Quite a little, don't remember how much it was.

Q. What do you mean by quite a little? A. Oh about fifteen cases.

Q. And how much did these cases contain? A. I dont know the exact amounts that they would contain.

Q. And where were the goods before you took them up? A. Downstairs.

Q. What part? A. Outside of the fence.

Q. Who told you to take those up? A. Nobody told me to take those up, I just took them up because I thought it was the best place for it.

Q. Did you have any orders from Mr. Amend? A. No sir.

Q. Did you tell him anything about it? A. Yes sir.

Q. Afterwards or before? A. After.

Q. What became of these cases that were taken upstairs, if you know, are they up ther yet? A. No, I dont know where they are now.

Q. When were they taken out of there? A. At the time of the failure.

178 Q. How did they come to be taken out of there at the time of the failure? A. Mr. Hand wanted them up here at the office.

Q. And who opened the door to allow them to be taken out? A. I dont know who really opened the door, I was'nt down there the time they were taken up.

Q. How do you know they were taken up? A. I had to receive them over here.

Q. Who opened the door?

Mr. Simmons: He just stated he dont know.

Q. Where were those put in the second story? A. Up in the Northwest corner.

Petitioner rests subject to right to call W. B. McKeand on the question of his knowledge of the local conditions of the Racine and Stevens Point Warehouses and the labels on the manifest goods.

Adjourned until 7:45 P. M.

179 IN THE UNITED STATES DISTRICT COURT,

Eastern District of Wisconsin.

In the Matter of the Racine Knitting
Company, Bankrupt.

On special reference.

TESTIMONY ON BEHALF OF RECEIVERS AND TRUSTEES.

EDWARD McCREEDY, being duly sworn, testified as follows:

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Q. Your name? A. Edward McCreedy.

Q. You live at Stevens Point, do you? A. Yes, sir.

Q. What is your business? A. I am an expert engineer.

Q. Where have you been employed during the last one or two years? A. At the Racine Knitting Company's Works at Stevens Point.

Q. Who has been the manager of the Stevens Point plant of the Racine Knitting Company, since last summer? A. Mr. Pugh, I believe.

Q. Mr. Charles L. Pugh? A. Yes, sir.

Q. Did Mr. Pugh make measurements for the purpose of drawing a plat of the grounds, plant or buildings of the Racine Knitting Company's Works at that point? A. Yes, sir.

Q. I will show you this sketch, Mr. McCreedy, and will ask you
if that if an exact or accurate representation of the buildings and
180 grounds belonging to the Racine Knitting Company at Stevens
Point? A. Yes, sir, you have it perfect there.

Q. Now in looking at that plat will you tell us which is the front of the property? A. No answer.

Q. I can ask this question in another way. Are the different rooms and the purposes for which they are occupied, indicated on this plat? A. Yes, sir.

Q. The large building is the factory proper? A. Yes, sir.

Q. In the direction indicated here is that the direction from the Knitting factory proper that the warehouse building is? A. Yes, sir.

Q. The room marked 26x20 is the office? A. Yes, sir.

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ard
edy.

Q. And the rooms marked finishing room and knitting room are used for that purpose? A. Yes, sir.

Q. In which rooms does your occupation require you to be? A. Finishing room, and engine room, well in fact I have to get yarn for the knitting room also.

Q. Is there anything enclosing the property of the Knitting Company? A. Yes, sir.

Q. What is it? A. Fences.

Q. Does the pencil line on the plat indicate the location of that fence? A. Yes, sir.

Q. Where is the front of the factory? A. On the west side.

181 Q. How many entrances are there? Into the property from the street A. One, except the engine room.

Q. Are there any gates? A. Yes, sir.

Q. How many? A. Three.

Q. Are they indicated on the places by the marks "G 1-2-3?" A. Yes, sir.

Q. How would anyone gain entrance to the ware-house building from the outside, from the street I mean? A. By going through this little gate or climbing over.

Q. Or go through the factor and go around it? A. From the street can you see the ware-house building? A. Not from the front but from the sides.

Q. From the street, passing the front of the factory, is the warehouse visible? A. Not entirely.

Q. Do these measurements indicated on this plat accurately indicate the size of the buildings. A. Yes, sir.

Q. Does this plat truly represent the different locations of the buildings and rooms as they are? A. It is perfect.

Offered in evidence. Marked "Exhibit No. 7."

Q. From your location in the engine room can you see the entrance door to the ware-house building? A. Yes, sir.

Y. The door is in the end of the ware-house building nearest to the engine room? A. Yes, sir.

Q. Do you know the sizes of the windows in the ware-house building are? A. Not exactly, they are small windows, I should

182 think about 2½x4, I do not know that they are that wide.

Q. Are there shutters of any kind on the windows? A. Yes, sir.

Q. What kind? A. Iron clad.

Q. What is the fact as to whether or not these shutters are kept closed? A. They are closed except when we want to get yarn in the rear we have to open the shutters in the rear window.

Testimony Edward McCreedy

Q. Why do you open it? A. It is dark down there and you cant see your yarns.

Q. Were you present when Mr. Bank came up there to Stevens Point in January of 1903 with the purpose of taking inventory of the goods in this enclosure to the ware-house? A. Yes, sir.

Q. Who built that enclosure? A. I did.

Q. Before or after Mr. Banks was there? A. Before.

Q. By whose direction? A. By Mr. Hayes.

Q. Part of your work as employee of the Company? A. Yes, sir.

Q. Mr. Hayes was then the manager there? A. Yes at that time.

Q. Where is Mr. Hayes now? A. I cannot say, but I think he is at Grand Rapids, Mich., that is what I understand.

Q. He left Stevens Point before this failure? A. I think he did, just shortly before.

Q. He left when Mr. Pugh became manager? A. Yes, sir.

Q. Did you put up any of these card board signs on that
183 inner enclosure to the ware-house? A. Yes, sir.

Q. How many? A. Two.

Q. Where did you put them? A. One in the rear and one in the front.

Q. Where in the front? A. On the inside above the door.

Q. Did you put it there first? A. Yes, sir.

Q. Did you make any change in it afterward? A. Yes, sir.

Q. What change? A. Faced it around the other way.

Q. How was it faced first? A. The one on the inside facing outside.

Q. Who told you to change it? A. Miss Eilers told me to change it.

Q. Miss Eilers was the custodian who testified here? A. Yes, sir.

Q. Was that after Mr. Banks had gone back to Chicago? A. Yes, it was after that.

Q. Did you make any other change? A. Yes, sir. I took and put it on the outside.

Q. When was that done? A. When they were taking the goods out.

Q. On the 20th of Sept. last? A. I do not remember, the last time Mr. Banks was there.

Q. Who told you to do that? A. Mr. Banks.

Q. Was it ever put on the outside of the door before that? A. Not that I know of.

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ard
Creedy.

184 Q. Were there any other signs about the building to indicat that the Security Ware-house Company had anything to do wit the premises? A. No, Sir.

Q. Anything on the outside of the building, anything to indicat that it was a ware-house of the Security Company? A. No, si there were not.

Q. What is the fact, Mr. McCreedy, as to the condition of th ware-house during the year 1903, with reference to being full, o crowded, or otherwise? A. It was pretty well crowded.

Q. Will you state whether or not there was anything piled i front of this inner enclosure between the end where the entrance and the front of the ware-house building proper? A. There wer boxes next to the gate with nothing in that we were not using, the we had folding boxes in cases extending almost to the end next to th front window, we left room to go through with boxes from the do to the ware-house.

Q. On a line with the entrance of the inner enclosure? A. Ye sir.

Q. Now, on the other side of the passageway which you left, i the west portion of the building, what was stored? A. We ha three tiers of shelving there to the ceiling, in sections on the shelve was yarn in cases.

Q. How were these cases piled? A. There were a few sma ones three boxes high, two high of the most of any size, at the bac end, two high of most of the large boxes.

Q. Were there passageways from and between the rows of cases A. Yes, sir, one on the west side of the long row of cases.

Q. About how wide? A. About three and one-half I shoul judge.

185 Q. On the inside of this so-called ware-house was there an thing along the west partition? A. Yes, sir.

Q. What was in there? A. Goods were stored in there.

Q. In cases? A. Yes, sir.

Q. How high were they piled? A. Two boxes high.

Q. Prior to the time these goods were taken out by Mr. Bank representative of the Chicago Banks, what was the condition of th ware-house as to being well filled or otherwise? Q. There was n room to put in the goods without stacking up the boxes high.

Q. How high were they stacked then? A. Not more than fou feet.

Q. Do you mean the cases piled on each other were not more tha four feet? A. They were not piled more than four feet.

Testimony
Edward
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Q. How many cases high? A. In some places they were three cases high, where they were small cases.

Q. Are these cases from 2½ to 3 feet high? A. A few, but generally they are about 2 feet.

Q. How many keys were there to the ware-house building? A. Two keys.

Q. Did you have one of them? A. Yes, sir.

Q. Where did you keep it? A. In the engine room.

Q. Were you in the habit of going into the ware-house? A. Yes, sir.

186 Q. For what purpose? A. To get yarns.

Q. That was a part of your business? A. Yes, sir.

Q. After the Company had failed and after the receivers had been appointed did you receive any instructions from Mr. Pugh with reference to this ware-house? A. Yes sir.

Q. Has he since the appointment of the receivers had charge of the building under the receivers and subsequently the trustees? A. He has.

Q. What instructions did he give you? A. Not to let anyone go into the storeroom.

Q. What do you mean by that? A. Not to let anyone go into the ware-house at all.

Q. The ware-house of the Racine Knitting Company? A. Yes, sir.

Q. Do you mean not to go in there at all? A. That was the instructions I got, not to let anybody into the storeroom.

Q. I will ask you whether or not you have since kept watch over that ware-house or storeroom to see that the property had not been disturbed? A. Yes, sir. I have also kept the ware-house locked.

Q. What did you do with the key nights? A. I left it in the engine room.

Q. Was the engine room locked? A. No we had a watchman there nights.

Q. Mr. McCreedy, is it possible to read any of these signs that were placed on the inside of that inner inclosure from the ware-house, without opening the windows in addition to the door? A. I would say that it was necessary to have light in there.

187 Q. Was it necessary to open the windows in order to read these signs? A. Yes, sir.

Q. I refer to the sign as it was originally placed before it was put on the outside of the door? A. Yes, sir.

Q. Did you open or force open this inner enclosure to the warehouse? A. At what time.

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Q. After the failure. A. Yes, sir. I opened it.

Q. What was necessary to do in order to open the door? A. Take the hinges off.

Q. What hinges do you refer to? A. Roller hinges at the top of the door.

Q. How many? A. Two.

Q. What did you have to do to remove them? A. Take the screws out.

Q. On the outside of the door? A. Yes, sir.

Q. When that was done the door would swing around? A. Yes, sir.

Q. There was no difficulty in gaining an entrance then? A. No, sir, you could open it wide then.

Q. What is the size and width of the palings around this inner enclosure? A. Three inch strips.

Q. And the width of the space between the palings? A. Three inches.

Q. The gate is built in the same way is it? A. Yes, sir.

Q. Have you seen these little tags that were put on the cases 188 inside the enclosure? A. Yes, sir.

Q. Where were these tags placed with reference to the inner partition? A. They were put on the inner ends of the boxes away from the partition.

Tags referred to marked "Exhibit L". Offered in evidence.

Cross-Examination by Mr. Robbins.

Q. The cards you speak of were placed on the ends of the boxes along the aisle in the enclosure? A. Yes, sir.

Q. So that anybody going down the aisle could see the cards? A. Yes, sir.

Q. One tag on each box? A. Yes, sir.

Q. Were these cards like "Exhibit L"? A. Apparently the same.

Q. Were these cards put on when the property was first put in storage? A. I cannot say just at that time, but I think they were.

Q. And have been on ever since as far as you know? A. Yes, sir.

Q. Is there a sky-light in the roof of the building? A. No, sir.

Q. Who told you to break into the enclosure by taking off the hinges? A. Mr. Pugh.

Q. Who is he? A. The manager of the Knitting Works.

Testimony of Edward McCreedy.

Q. What place did he hold, if any, under the receivers, when 189 he told you to break in there? A. I do not know.

Q. Was it after the receivers were appointed? A. Yes, I think so but I would not be certain.

Q. Was it after the receivers were in possession of the Stevens Point plant? A. I think they were.

Q. Mr. Pugh was there himself? A. Yes, sir.

Q. Would you say that Mr. Pugh gave the orders to break in after the receivers were appointed? A. I do not know as to that.

Q. Why did he give you orders to break in? A. I do not know.

Q. Did he tell that he wanted to go in and what he wanted to do? A. No, sir.

Q. Just told you to take off the hinges? A. Yes, sir.

Q. Did you demur? A. I did.

Mr. Simmons. Object to as immaterial.

Q. What did you tell him?

Objected to as immaterial.

By the Court. Overruled.

A. I told him I would.

Q. What else did you say? A. Nothing.

Q. Did you object to it? A. No, sir.

Q. You did just what he told you to do? A. Yes, sir, I would not dare to object.

Q. You took off the hinges because it was necessary? A. Yes, sir.

190 Q. You could not get into the enclosure without taking the hinges off? A. No, sir.

Q. That has been true since the enclosure has been there? A. Yes, sir.

Q. Neither you or the officers could get in there in any way? A. I had no key to the lock.

Q. The only one Miss Eilers had? A. That is the only one I know anything about.

Q. What did you do after taking the hinges off? A. I went back into the factory and went to work.

Q. Did you put the hinges back? A. When they got through.

Q. Who were they? A. I do not know who they were.

Q. What did you do after you had got the hinges on? A. I went into the engine room.

Q. How did you happen to go back to repair the injury done to the door in breaking it open? A. I believe that Mr. Pugh came and said that they were through.

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Q. Did he tell you what he had been doing? A. No, sir.

Q. Did I understand you to say that you had put the hinges back again? A. I did.

Q. Have you broke into the enclosure at any other time? A. Not that I know of.

Q. Fix the time of that breaking into the enclosure as near as you can. A. I do not know as I can do that.

Q. As near as you can, was it about two weeks ago? A. Longer than that, about a month I should judge.

Q. Was that before or after Mr. Pugh told you not to let
191 anyone into the inner enclosure. A. Afterwards.

Q. This gate in there and the fence is right in front of the sidewalk that goes up to the building? A. Yes, sir.

Q. How many other gates were there? A. Three gates on the front side.

Q. But only one was open all the time. A. Just the one that we used.

Cross-Examination by Mr. Morton.

Q. You put up a sign there in this inner enclosure for the Storage Company? A. Yes, sir.

Q. Can you tell us when that was? A. In January sometime, in 1903.

Q. You placed that sign on the inside of the building so that you could see it from the outside? A. Yes, sir.

Q. Now, when the door was open could you then see that sign? A. It made no difference about the door, it was above the door.

Q. How high was it? A. Just about 6 feet.

Q. When the door was open did it let some light in? A. A little.

Q. You could read it from the door? A. You could if you got close to it.

Q. How long after that did you change it? A. I cannot say as to that.

Q. Give us your estimate. A. It might have been a month or more.

192 Q. Was it a month as you now recall it? A. It may have that or more.

Q. Can you tell us how long the card was? A. About 15 or 16 inches long and 10 or 12 inches wide.

Q. Was there any printing on it? A. Yes, sir.

Q. What did it say? A. No answer.

Q. Is this sign similar to the one you put up? A. Yes, sir.

Testimony o Edward McCreedy

Q. This sign now shown to you is the sign you put there first? A. It is like that one.

Q. You do not know whether this is the one or not? A. I did not take particular notice of it, I mean the number of the sign.

Q. You would judge that this is about the size of that sign? A. Yes, sir.

Re-direct Examination by Mr. Simmons.

Q. In the letter from Mr. Banks to Miss Anna Eilers, dated Jan. 27th, 1903, marked Exhibit No. 1 for identification, are found certain instructions to change the cards in the enclosure, I will ask you if it was about that time, if you know when that was, that you changed the card? A. I cannot say as to what time it was.

Q. Miss Eilers gave you your directions did she? A. Yes, sir.

Q. Did she inform you that she had instructions?

Objected to by Mr. Robbins.

By the Court, Overruled.

A. She gave me no reason as to why it was done and who told her to have it done.

193 Q. She did not inform you that she had received instructions? A. No, sir.

Counsel for Citizens' Bank objected in due time and form to any testimony of this witness relating to instructions received from receivers and trustees and witness's action thereon.

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194 CHARLES L. PUGH, being duly sworn, testified as follows:

Testimony Charles

By Mr. Simmons.

Q. Mr. Pugh, you reside at Stevens Point? A. Yes, sir.

Q. About how long have you been there? A. Off and on since last June.

Q. At the time you went up there who was manager of the Stevens Point plant of the Racine Knitting Works? A. Mr. Hayes.

Q. Did you succeed Mr. Hayes? Before the bankruptcy of the Racine Knitting? A. Yes, sir.

Q. About what time? A. September 10th, 1903.

Q. You occupied that position at the time the Racine Knitting Company went into bankruptcy? A. Yes, sir.

Q. You were informed on or about Oct. 6th of the appointment of receivers for that Company? A. Yes, sir.

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s L. Pugh.

Q. Have had entire charge of the plant? A. Yes, sir.

Q. You are familiar with the premises and buildings of the Racine Knitting Company's plant there at Stevens Point? A. Yes, sir.

Q. I will ask you if this is the plat made by you, and if it accurately represents the grounds of the Racine Knitting Company, and the buildings thereon? A. Yes, sir.

Q. Did you make the measurements alone or who assisted you? A. Our engineer Mr. McCreedy.

Q. I will ask you what the black line on the plat is? 195 A. Fences.

Q. The property is entirely fenced around is it? A. The south wall of the factory proper forms a part of the fence.

Q. What kind of a fence is it? A. A tight board fence.

Q. On the east side? A. A tight board fence.

Q. How about the north side? A. The same.

Q. What entrances are there into the grounds? A. Three gates.

Q. How are they indicated on the plat? A. By the letter "G 1-2-3".

Q. Were these gates open or closed? A. One open, the other two closed.

Q. Which one open? A. The small one in the middle.

Q. The others are larger? A. Yes, sir.

Q. For what purpose? A. For teaming and going in and out with goods.

Q. In what way can one obtain access to the ware-house building from the outside or street? A. Going through the gate, from the office, or around the north end of the building.

Q. These are the only ways going to or into the ware-house building proper. A. Yes, sir.

Q. Was this ware-house building visible from the street? A. Not entirely.

Q. In front of the factory? A. No, sir.

196 Q. Which was the larger building? A. The factory.

Q. Did you take measurement of the windows of the ware-house building? A. Yes, sir.

Q. What was the width of the windows? A. Two feet eight inches.

Q. About how high? A. I should judge about 4 feet in height.

Q. Prior to the failure of the Company and during the time you were there how was this space in the ware-house outside the inner enclosure occupied and for what purpose? A. Storage house for yarns and raw materials.

Q. Were there any goods of any kind stored in the north-east corner of the building outside of this enclosure? A. Yes, sir.

Q. What kind of goods? A. In the ware-house goods were piled almost to the gate of the inner enclosure and extended along the wall to the front end of the ware-house building.

Q. What else was in there? A. Packing cases filled with what we call folding boxes, made of paste-board and there were cases of yarns that were not then in active use.

Q. How much of the space was occupied between the front of the inne enclosure and the north end of the ware-house building proper? A. Packing boxes along the north wall to the north east corner so that there was just room enough to go to the ware-house door to the inner door.

Q. How was it on the other side of the passage way from the front door to the inner door extending from the outside door of the ware-house south to the ware-house building proper?
197 A. The west wall was filled with three tiers of shelving the entire length of the wall filled with material, another line of boxes extended the full length of the middle of the ware-house from the end of the inner enclosure to the south wall of the ware-house, and along the east wall of the enclosure from the north end of the enclosure to the south end of the ware-house.

Q. About how high were the boxes and cases piled? A. Some places as high as five feet, some places three feet.

Q. What was the width of the passageway left between the inner row of cases next the partition wall and the shelving along the other wall? A. Three or four feet.

Q. Was the window in the north wall of the ware-house kept open? A. I have never seen the window open in the north wall of the warehouse.

Q. The shutters you mean? A. Yes, sir.

Q. When the door was open what was the condition of the interior of the building as to being light or otherwise? A. The south end was very dark.

Q. To see anything or get anything in the rear end of the building what was necessary to do? A. Open the south window.

Q. When that rear window was open was it possible from the outside of the enclosure to read any signs pasted on the rear wall of the inside of the enclosure? A. No, sir.

Q. What is the fact with reference to this south window, was it usually kept closed except when you wanted to get something in the rear? A. Yes, sir.

Q. As I understand it the sign which is said to have been
198 pasted at the front of this enclosure was never on the outside of the door or where it could be seen until the latter part of Sep-

of L. Pugh. tember, 1903, when Mr. Banks came up there to remove some goods? A. Yes, sir.

Q. Do you know who took it from the interior and order it put on the outside? A. Mr. Banks.

Q. Were you present? A. Yes, sir.

Q. Is this the sign? A. Yes, sir.

Offered in evidence. Marked "Exhibit No. 8"

Q. Did you at that time discover any other sign inside there of a similar nature to this sign? A. Yes, sir.

Q. Where did you find it? A. On the floor.

Q. There was no other sign pasted up there when you found thi one on the floor? A. Except the one on the front gate.

Q. Did you on the 6th day of October, 1903, receive a messag by telephone from the receivers at Racine with reference to th Stevens Point plant? A. Yes, sir.

Q. What did that message relate to? A. Informing me tha Mr. Hand and Mr. Dietrich had been appointed receivers.

Q. Did they on that day or the day following give you instructions with reference to the property in the ware-house? A. Yes, sir.

Q. To what effect? A. They instructed me under no con-
199 sideration to allow anyone to go into the warehouse.

Q. Absolutely or without permission? A. Not withou permission from the receivers.

Q. Did you communicate these instructions to anyone? A. Yes, sir.

Q. To whom? A. Miss Eilers, cashier of the Racine Knittin Company, and to Mr. McCreedy.

Q. And have these instructions been carried out? A. Yes, sir.

Q. Did Mr. Banks at about that time apply either to yoursel or to Miss Eilers, by letter, to get a key?

Objected to by Mr. Robbins.

By the Court. Overruled.

A. Mr. Banks did not apply to me for a key.

Q. Did he apply to Miss Eilers and did she show you the letter? A. Yes, sir.

Q. Is this the letter, marked "Exhibit No. 6" for identification? A. Yes, sir.

Q. And did he, Mr. Banks, write a second letter with reference to the same matter, letter marked "Exhibit No. 7" for identificatio and communicated to you by Miss Eilers? A. Yes, sir.

Q. What direction did you give Miss Eilers? A. I told her to tell Mr. Banks to refer the matter to the receivers at Racine.

Offered in evidence together with carbon copies of reply, identified by Miss Eilers.

Letter of October 6th, 1903, and reply, marked "Exhibit No. 9".

Letter of October 7th, 1903, and reply, marked "Exhibit No. 10".

Q. Did you yourself about the last part of September, or first part of October, 1903, receive any letter or letters from Mr.
200 Banks with reference to finding another ware-house? A. Yes, sir.

Q. Did you at his request endeavor to find another ware-house? A. Yes, sir.

Q. Did you write him what you had done? A. Yes, sir.

Q. I will show you this letter marked "Exhibit No. 4" for identification and ask you if that is the first of the letters which you just referred to? A. Yes, sir.

Q. Is the carbon copy of the letter purported to be written by you a true copy of your reply? A. Yes, sir.

Q. I now will show you the letter marked "Exhibit No. 5", and ask you if that is the next letter written by him to you on that subject? A. Yes, sir.

Q. That letter was dated October 5th, 1903? A. Yes, sir.

Q. Was there anything further done about the other warehouse? A. No, sir.

Q. Why not? A. The next day I received word from the receivers at Racine not to disturb the goods.

Q. Did you receive word from Mr. Banks saying that he was coming to Stevens Point Tuesday morning, about the 20th of September, 1903? A. Yes, sir.

Q. How did you receive that message? A. Mr. Banks telephoned me from Racine.

Q. At what time of the day or evening? A. About 3 o'clock in the afternoon, I believe.

201 Q. Did he inform you in this message when he would arrive in Stevens Point? A. Yes, sir. Sunday morning.

Q. What time? A. At 2 o'clock in the morning.

Q. Did he tell you when he wanted you and Miss Eilers to be on hand? A. Yes, sir.

Q. What time? A. Seven o'clock.

Q. Did you communicate this to Miss Eilers? A. Yes sir.

Q. Did she in reply say to you that she was glad you had told her because she wanted to fix up those manifest goods, or something to that effect? A. Yes, sir.

Q. Did she then leave office and go out into the warehouse? A. That is my recollection.

of
L. Pugh.

Cross-Examination by Mr. Robbins.

Q. Did you take down the sign that has been introduced in evidence? A. Yes, sir.

Q. When? A. About a week ago.

Q. Where was the sign before you took it down? A. On the outside of the inner enclosure of the ware-house.

Q. Over the door? A. Yes, sir.

Q. With the lettering facing out? A. Yes, sir.

202 Q. Where did you find the sign you said was on the floor? A. On the floor of the inner enclosure.

Q. How did you get into the inner enclosure? A. I saw it on the floor from the other end.

Q. I thought you said there were piles of boxes along this inner enclosure, the inner side of the enclosure? A. There were.

Q. How then did you see it on the floor? A. You can see over the boxes if you get on top of the boxes.

Q. Then you got on the boxes and saw it? A. Yes, sir.

Q. A week ago, was it? A. No, sir. I think it was shortly after Mr. Banks was there last September.

Q. You have been in that enclosure have you? A. Yes, sir.

Objected to by Mr. Simmons as not cross-examination, and immaterial. Sustained by the Court.

of
Cook.

203 AUGUST COOK, being first duly sworn, testified as follows:

By Mr. Simmons.

Q. Mr. Cook, your name is August? A. Yes, sir.

Q. You are a teamster by occupation? A. Yes, sir.

Q. You live in Racine? A. Yes, sir.

Q. Have you ever done teaming or other work for the Racine Knitting Company? A. Yes, sir.

Q. How long? A. A little over a year. A year ago the 28th of January I started teaming for myself?

Q. You know Mr. Harry Netzinger who is employed as shipping clerk by the Racine Knitting Company? A. Yes, sir.

Q. Are you familiar with the ware-house building which is owned the Milwaukee and St. Paul R. R. Company, and which has been occupied by the Racine Knitting Company as a ware-house? A. I am familiar with the round-house which has been used as a ware-house.

Q. Do you know those spaces inside which have been enclosed by fences or palings? A. There are many, I cannot answer in particular.

Q. How many enclosures are there there? A. Three.

Q. Who built them? A. I did.

Q. For whom and by whose direction? A. B. B. Blake, by his direction, and for him.

204 Q. Was he an officer of the Racine Knitting Company? A. I do not know.

Q. Were you teaming for yourself at that time? A. No, sir, not at that time.

Q. Were they all build at once? A. No, sir.

Q. Which was built first? A. Up-stairs.

Q. Were the other two built at the same time or different times? A. Different times.

Q. Previous to the time you built these enclosures had that part of the building been occupied by the Racine Knitting Company for storage of goods? A. Yes, sir. They had goods in there.

Q. There were locks on the gates of these enclosures were there? A. Yes, sir.

Q. Who had the keys for the enclosure? A. Mr. Netzinger had them, he drove down with me.

Q. What orders did you get from Mr. Netzinger and what did you do? A. All the orders I got from him was that he would tell me to take the team and go to the round-house with him and get some goods there.

Q. Would you take any goods down there when you went down for the orders? A. Some times.

Q. With the team? A. Yes, sir.

Q. In what shape were they? A. Sometimes two or three cases, just as they got them in we took them down there and stored them. Sometimes there was half a case, we would nail it up and store it down there.

205 Q. Do you know those cases which were known as manifest goods? A. All I know is what they told me, I did not pay much attention.

Q. You were told which were manifest and which were not? A. Yes, sir.

Q. By whom? A. Mr. Netzinger.

Q. How did you distinguish the manifest goods from the others? Objected to by Mr. Robbins.

By the Court. Overruled.

A. He showed me some tags that were on each of the cases.

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t Cook.

Q. Something similar to this tag marked "Exhibit L" for identification? A. About that size, and I should judge similar to that.

Q. What did you understand the goods were that had the tags on?

Objected to by Mr. Robbins.

By the Court. Overruled.

A. I did not know but I was told that they were manifest goods that had the tags on.

Q. I will ask you if there were any other goods in these enclosures that did not have the tags on? A. Yes, sir.

Q. Goods belonging to the Racine Knitting Company?

Objected to by Mr. Robbins.

By the Court. Overruled.

Q. Whose goods were they that did not have the tags on? A. The Racine Knitting Company's.

Q. In which of the enclosures were goods of that character? A. Up-stairs.

Q. Did you see any in any of the other enclosures? A. I do not remember.

Q. How did they get up stairs, do you know? A. Mr. Netzinger and I put them up there from down-stairs.

Q. From the spaces outside? A. Yes, sir.

206 Q. Why did you do that? A. They were doing a lot of robbing around there.

Q. You mean that the people were breaking open the packages and stealing goods out of them? A. Yes, sir.

Q. Did the robbers get into the fenced enclosures down below? A. Yes, sir.

Q. And take goods out of there too? A. Yes, sir.

Q. Did Mr. Netzinger at this time give you the key or keys to any of these enclosures? A. Not that I remember.

Q. He went with you? A. Yes, sir.

Q. I will ask you if you know anything about goods being taken down there from the office building of the Racine Knitting Company and exchanged for goods in these manifest cases? A. Some were taken down.

Q. Did you go with Mr. Netzinger? A. Yes, sir.

Q. What did you do with them when you got down there? A. He would take some odd sizes down there and change them for different sizes that he wanted.

Q. How did you take them? A. With the team.

Q. How many times did you go with the team? A. I cannot say.

Q. How large cases of goods would you take with the team in that way? A. Sometimes three, four or five cases.

Q. Sometimes more than that? A. I do not remember but it may have been more than that.

207 Q. You went quite a number of times? A. Not so very often.

Q. Do you know how many times? A. No, sir.

Q. You were down there a good many times with Mr. Netzinger? A. Yes, sir.

Q. Taking in cases and taking out cases? A. Yes, sir. We had everything stored there, furniture and empty boxes.

Q. In the enclosures or inside and outside the enclosures? A. Outside the fences we had furniture and premium goods stored.

Q. Were there a quantity of those goods there at the time of the failure? A. Yes, sir.

Q Also cases of materials and manufactured goods? A. Yes sir.

Q. The Knitting Company were using that part right along outside the enclosure? A. I do not know.

Q. Will you state whether or not Mr. Netzinger had a key which gave him access to these enclosures? A. I do not know?

Q. How then did he get in? A. He had a key.

Q. You know that when you went down with him he had a key? A. Yes, sir.

Q. Did you ever take out goods from these cases that were down there which were not manifest or tagged goods? A. Yes, sir.

Q. How often have you done that? A. I cannot say.

208 Q. Give me an estimate. A. I do not remember just how many times.

Q. As often as two or three times a week? A. I cannot say as to that, sometimes it might have been two or three times a week and again not for a month. That is something I do not remember.

Q. Who went with you? A. Mr. Netzinger.

Q. At the time of the failure were there some of these goods that were not manifest goods or tagged in any of these enclosures? A. Yes, sir.

Q. How many cases? A. I cannot say exactly. I should judge that there were about 10 or 15 cases.

Q. Whereabouts were they? A. Up stairs.

Q. What was done with these? A. We got them out and took them up to the office.

Q. By whose direction? A. Mr. Hand's I think.

Q. At the same time you removed the goods down below that were outside the enclosures? A. Yes, sir.

y of Cook. Q. You took all belonging to the Racine Knitting Company that were not manifest goods? A. Yes, sir.

Q. Mr. Hand instructed you to leave the manifest goods there? A. He did not say anything about it.

Q. He instructed you to bring up everything except the manifest goods? A. He said take all the cases belonging to the Racine Knitting Company up to the office.

209 A. Everything belonging to the Racine Knitting Company, furniture and premiums.

Cross-Examination by Mr. Robbins.

Q. When you went down there to get everything belonging to the Racine Knitting Company you did not take anything belonging to the Storage Company did you?

Objected to by Mr. Simmons.

Q. How did you tell one from the other? A. The manifest goods had cards on and the others did not. We had them put separate in a vacant space.

Q. But there were cards on the manifest goods? A. Yes, sir.

Q. You could tell one from the other by the cards? A. Yes, sir.

Q. That was not hard to do? A. No, sir.

Q. Anybody that went in there could see that? A. Anybody that knew the goods.

Objected to by Mr. Simmons as immaterial.

Adjourned until 9 o'clock the following morning.

210 9 A. M. Feb. 13th, 1904.

y of cDill. G. E. McDILL being first duly sworn on oath testifies as follows:

Examined by Mr. Simmons.

Q. You live at Stevens Point, Wis.? A. Yes sir.

Q. And what is your business there? A. Cashier of the Citizens National Bank.

Q. How long have you held that position? A. About eleven years.

Q. And how long have you been a resident of Stevens Point?

Testimony
G. E. Mc

A. I have been a resident practically all my life, just outside the city limits.

Q. Then you are familiar with the city and its business interests are you? A. Yes sir.

Q. You are at present one of the Trustees of the Racine Knitting Company? A. Yes sir.

Q. Were you prior to the failure familiar with the location of the plant of the Racine Knitting Company located at Stevens Point? A. Yes sir.

Q. Until the filing of the petition in Bankruptcy here in the matter of this knitting company did you hear of the Security Warehousing Company as being engaged in business at Stevens Point? A. Never heard of them.

Mr. Merton: Objected to.

Referee: He may answer.

Q. Your Bank is a creditor of the Racine Knitting Company, is it? A. Yes sir.

Q. Had it loaned moneys to the knitting company? A. It had.

Q. Did you have applications from them for loans during the summer of 1903? A. Yes sir.

211 Q. Did you sometime in June or July, 1903 have occasion to go over to the factory building and go through the plant? A. I made a complete inspection of all the business and the factory building and the warehouse and stock, and I think it was either the last part of June or first part of July, at the instance of the resolution passed at our Directors Meeting that the business should be investigated.

Q. Were you requested to also, by any officials of the knitting company to do that? A. Yes sir, Mr. Herbert S. Blake wrote me a letter.

Mr. Merton: Object to what took place in a general way so far as the Citizens Bank is concerned.

Q. You went into this warehousing building connected with the plant there did you at that time Mr. McDill? A. Yes sir.

Q. Anybody go with you? A. I went in of my own accord, and I was followed in there afterwards by the Manager Mr. Hays.

Q. And did you pass through the warehouse from one end to the other? A. I went up there, and was also accompanied by the Assistant Cashier Mr. Johnson of our Bank. We went up through the warehouse.

Q. In what condition did you find the warehouse with reference to its being filled or otherwise with stock? A. Well I found it to be in a very crowded condition, which bore out the statement

ony of
E. McDill.

of the knitting company that they were carrying a large amount of stock and needed more money. Main object of examining.

Q. What was the condition of the room as to light? A. It was very dark, so much so that Mr. Hays wanted to show us some silks which he took from a shelf near the east window we had to go to the door to show the colors. Not light enough to see what they were.

212 Q. Calling your attention particularly to the space along the west partition wall of this enclosed space, inside that warehouse, what was the fact as to whether there were goods along there on one side or the other or both? A. Along the partition on the outside of the inner enclosure was piled from two to three feet of boxes of goods.

Q. What was the condition as to the space North of this enclosure between that and the front end of the warehouse? A. The space in front of the enclosure out as far as the door leading out of the warehouse was filled a mass of boxes and goods of all descriptions piled up as high as the slant of the roof at that time.

Q. Did you notice as you were passing along whether there was anything inside of that partition or not? A. Yes sir, I asked the manager—

Mr. Robbins: Objected to.

A. Yes I noticed a lot of goods piled in there.

Q. Did you see any signs there with the name of the Security Warehousing Company? A. No sir, not a sign inside.

Q. Did you see any tags on these goods? A. No sir that couldn't be seen the way the goods were located

Q. Did you see anything about the premises to indicate that the Security Warehousing Company was doing business there?

Objected to as leading. Objection overruled.

A. I didn't see a single thing that would indicate that the Security Warehousing Company was doing any business there, [and that is what I was looking for.]

Mr. Robbins: Move to strike out "that is what I was looking for".

Referee: That may be stricken out.

Q. Have you at any time seen the lock which has been mentioned in evidence here which is said to have fastened the outer 213 door of that inside enclosure there at Stevens Point? A. I never saw it, that is to make a close examination. I saw a padlock there.

Q. As you passed along? A. As I passed along.

Q. Did you see any name Security Warehousing Company? A. No sir, you couldn't see it without striking a match.

Testimony o
G. E. McD

Q. Did you inquire of Mr. Hays, the manager of the knitting company as to what those goods were inside the enclosure?

Objected to. Objection overruled.

A. I did inquire.

Q. What information did you receive from the manager?

Objected to. Admissions of Hays cannot bind these parties.

Mr. Simmons: I ask that the witness' answer be taken down, and then you order that it may be ruled upon whether material or not.

Referee: He may answer.

Exception.

A. He told me that those goods were being stored for the fall trade and the manufactured goods, and the object of locking them up was to keep their own employees from pilfering.

Move to strike out the answer. Motion overruled and exception.

Q. Had Mr. H. S. Blake, the Manager of the Racine Knitting Company been personally before the Board of your Bank about that time Mr. McDill? A. Had been there a little earlier in the year.

Q. How long was that before this trip you made over to the factory Mr. McDill? A. I couldn't positively state that now without going back and referring to the record of the bank. My recollection a month or so before that.

214 Q. Subsequent to January, 1903 was'nt it? A. Yes sir.

Q. Was Mr. Blake at that meeting asked the question as to whether any of the property of the knitting company at Stevens Point was encumbered, or did he make a statement to the bank [illegible]ials on that subject?

Objected to. Objection overruled.

A. He was asked that question, and he did make a statement.

Move to strike out.

Q. What was the statement then and there made by him on that subject? A. He admitted a statement and his assets and liabilities verbally.

Q. State what he said about the property being encumbered there at Stevens Point? A. He said there was no such thing as an encukbrance on the property at Stevens Point, and under their agreement with our bank would there ever be any.

Q. In the condition that you found this warehouse when you visited it in July, 1903 with reference to the merchandise stored there and the light in the room, will it be possible for anybody to see a sign such as have been offered in evidence here and which is said to have been pasted on the lower end of this enclosure.

Objected to.

ony of
. McDill.

Q. Would it, from the condition of the Northeast corner of the building between the North end of this inner enclosure and the front of the warehouse building, and extending over to the entrance door of the main building, what would you say as to its being possible for anybody to get in a position to see down the aisle that is said to have existed between the rows of cases in that enclosure?

Mr. Robbins: That and the preceding question are most indefinite because it don't appear that the windows are open
215 or shut.

Referee: He may answer.

A. No you couldn't see anything.

Q. Mr. McDill as Trustee of the Racine Knitting Company have you visited and are you familiar with the premises down here at Racine known as the warehouse building, a round house? A. Yes sir, I have been there three times.

Q. Had you on each of these occasions looked at these fenced enclosures that have been testified to here? A. Yes sir.

Q. Notice padlocks upon them? A. Saw there were padlocks upon them yes sir.

Q. Went by those padlocks? A. Yes sir.

Q. When were you there last? A. I was there about an hour ago.

Q. Had you ever prior to this morning seen the name of the Security Warehousing Company on the padlocks down there? A. I had not no sir.

Q. Did you make an examination of them this morning? A. I did.

Q. Did you find that the name of the Security Warehousing Company was stamped in those padlocks? A. Yes sir.

Q. Whereabouts? A. On the face of the lock.

Q. What was the fact as to the ability of a man to see that name at any distance away from the lock? A. I couldn't see to read it in the best lights position down there farther away than one foot. The size of the letters being only one eighth of an inch.

Q. Were they raised above the surface of the lock or cut in? A. They seemed to have been stamped in on the lock, the manufacture.

Q. What are the color of the metal in which they were stamped?
A. The lock is a brass lock, but this stamping part seems to
216 have been bronze and then turned black.

Q. And are these letters as stamped in a different color than the metal or is it dark? A. Very dark now, couldn't see what it was originally.

Testtimony of G. E. McD

Q. And where is that piece of dark metal in which the name is stamped, what part of the padlock? A. Right on the face of it.

Q. Sort of a band across the face? A. Yes sir.

Q. You became trustee of the knitting company about the 30th day of November Mr. McDill? A. I think the appointment was on the 9th day of December, the election on the 30th day of November?

Q. You mean you qualified and entered upon the discharge of duties about the 9th of December? A. Yes sir.

Q. And have the Trustees since that time beein in control of this plant at Stevens Point? A. They have.

Q. And who has had possession and control of this warehouse building? A. Mr. Pugh, our manager has personally taken charge of it.

Q. But under the Trustees? A. Under the Trustee's directions, yes sir.

Q. Did he have any orders, instructions from the Trustees with reference to letting anybody in this building or letting any goods to be removed? A. Under no circumstances was he to allow any more of these manifest goods be taken away from the property.

Q. Could anybody get into the building to those manifest goods without your permission? A. No sir.

Cross-Examination. Mr. Merton.

Q. Now these boxes that you saw around in the warehouse at Stevens Point outside of the enclosure, did you examine 217 those boxes to see what was in them? A. Well yes some, not so large that Mr. Hays pulled out different samples of yarn and took it to the door so we could look it over.

Q. Weren't a great many of those boxes empty? A. I didn't see any of them empty.

Q. How many samples did he pull out? A. Pulled out some black yarn, and some tan yarn.

Q. Can't you tell me in figures? A. Just two or three.

Q. Then he pulled out of two or three boxes? A. Yes sir.

Q. And the rest of the boxes you did'nt make any examination as to whether full or empty? A. I hefted possibly half a dozen as I went up to see whether empty or full, and all I picked out had the appearance of being full with something.

Q. How many boxes outside of the enclosure? A. I should judge forty or fifty boxes.

Q. Now I want to ask a question if your honor please for the purpose, if it becomes necessary to ask for an adjournment of this ny of McDill.

sale, if your honor cannot reach a conclusion. I want to ask this witness if he can tell me. You know the property of which the Citizens Bank of Mukwonago claims to have warehouse receipts? A. Yes sir.

Q. What was that property inventoried and appraised at by the Trustees? A. I think it was appraised at 33%.

Q. Now that isn't an answer to my question at all, don't you know how it is appraised at in dollars and cents? A. Trustees didn't appraise at all. I didn't understand you.

Q. Did the Receivers appraise it? A. No sir.

Q. Don't you know what they were appraised at? A. I have seen the list since yes sir.

Q. Now, can you tell me what the amount they were ap-
218 praised at? A. The way I was going to give it to you then
the goods, something over Eight Hundred Dollars.

Q. Now do you think in your opinion you have seen these goods I understand, have you? A. I don't know whether I will answer that or not.

Q. Whether in your opinion or your judgment, being conversant with the goods and the general value of it, would those goods sell for more than Two Thousand Dollars in market? A. No sir.

Examined by Mr. Robbins.

Q. Mr. McDill you said it was in June? A. It was either last part of June or first part of July.

Q. What time of day? A. It was between three and four o'clock on a particular sunny afternoon.

Q. Did you have the window on the East open? A. No sir, they were both closed.

Q. You didn't have either window open? A. No sir.

Q. Did you go down to the East end on the outside of the enclosure? A. Yes sir, went down and took some silks off the east end and went to the door on the west end to see what they were.

Q. How many times? A. Took two packages and went down there and examined them.

Q. Did you make an examonation of these different boxes to see whether full or empty? A. I hefted two or three just to see whether they were full, half dozen probably.

Q. Find out anything, whether anything in the boxes? A. Yes sir.

Q. You saw this enclosure? A. I saw that paling yes sir.

Q. You saw a lot of boxes inside there? A. Yes sir.

219 Q. You saw this door of the enclosure? A. Yes sir.

Q. You saw the padlock on it? A. Yes sir.

Testimony
G. E. Mc

Q. You say you couldn't get into it? A. Yes sir.

Q. Did you ask to get into it? A. No sir.

Q. How did Mr. Blake come to tell you that it was locked for the purpose of keeping people from pilfering? A. Mr. Hays. I asked him what he kept those in there for.

Q. Was that when you were out there? A. It was when we were standing out there in the warehouse, don't know whether at the door particularly.

Q. Wasn't it a fact that you wanted to go in there and he told you he kept it locked? A. No sir I never asked to go in.

Q. You didn't know whether those boxes were empty or full? A. No sir.

Q. Your investigation didn't cover that? A. Didn't have an opportunity to go in there, simply took his statement.

Q. You did ascertain the condition of the boxes on the outside of the enclosure? A. Yes sir.

Q. But you didn't press your investigation to the inside at all? A. No sir.

Q. And didn't seek to? A. It was rather a delicate matter, could'nt do it.

Q. Why? A. Did'nt want to create any thought that the Bank was getting after the people and arouse our relations, had always been very pleasant up to that time.

Q. So you didn't press your investigation because of feeling of delicacy? A. That is right, that is exactly right.

Q. But it was apparent to you that nobody could get into that enclosure there without either breaking or having a key to that lock was it not? A. It didn't look like a very slimsy thing, would'nt take much more than a kick to knock the whole thing down.

Q. Without either breaking it or unlocking, from what you saw nobody could get in there? A. That is right

Q. Is your Bank a subscriber to Duns Agency? A. No sir.

Q. To Bradstreet Agency? A. Yes sir.

Q. Had you called for any accounts of the status of the Racine Knitting Company prior to the time you went down there to investigate?

Objected to as immaterial and irrelevant, and not cross examination.

A. I couldn't state whether we got one from Bradstreet, we have seen several of them, and I dont remember about the date of them.

Q. Those showed the manifest goods did they not? A. Mr.

y of
McDill.

Blake's own statement showed they were, but he stated they v on only in Racine and not in Stevens Point.

Q. Was this statement to Mr. Hays the manifest goods befor after you visited the premises? A. It was before.

Q. So you went there having in your mind Mr. Hays staten that there were manifest goods? A. Mr. Blake's statement there were manifest goods at Racine and not at Stevens Point.

Q. Did you know what he meant by manifest goods? A. explained to the Board of Directors.

Q. What did he explain? A. Chattel Mortgage on the go

Q. Did he explain in what form it was in? A. No sir.

Q. He called them manifest godos? A. He used that w manifest, but illustrated to us as simply a mortgage.

221 Q. You had that in mind when you sent in and saw enclosure? A. Yes sir.

Q. And you didn't ask anything about it? A. I didn't Mr. Hays no sir.

Q. Had you received, your bank received from the Secu Warehousing Company circulars explaining its business and sol ing business? A. Never received any such thing.

Q. Had you received it from the Manufacturers and Merch Warehousing Company? A. Never heard of them before.

Q. Well coming to the statement of Bradstreet did that s manifest goods in connection with this Company? A. I thin did show manifest goods.

Q. Do you recall when you got that statement? A. I c only some statement I can recall.

Q. Has your bank preserved all statements received? A. think we have one statement, we received from Bradstreet.

Q. Does it look like that (referring to paper handed witn A I think the statement I have got of this particular item more it seems to me there are some familiar features in this.

Q. I will ask you to bring back with you a statement that have and the letter or other memorandum that you have in y possession indicating when it was received by you? A. If you just postpone this thing until someone else is examined I thin have it over to the hotel.

Q. All right we can do that right away. What is the width the outer door of the warehouse? A. Six feet.

Q. What is its height? A. About the same height.

Q. A door 6x6? A. Yes sir.

Q. What is the distance from the center of the outer door the center of the door of the warehousing Company's enclosure About twenty-three feet.

222 Q. And what is the width of the warehouse company's enclosure door? A. Five feet and three inches.

Q. Was this outer door open while you were there? A. About a third of the way. It is a roller door.

Q. It was'nt open all the way? A. No sir.

Q. You would'nt undertake to say the amount of light there would be in there if the door way all the way open? A. Yes I have seen it since.

Q. When you were talking about the conditions in regard to light you were giving your idea of the conditions when you were in there? A. Yes sir.

Q. Did you see the windows when you were there in generaly? Q. I was right by them, yes sir. The window on the west side of the building, you call it here the north side.

Q. On the side where the door is? A. It is banked up with boxes in front of it.

Re-direct Examination.

Q. You say you have seen that interior of the warehouse since that visit of yours in June or July last? A. Yes sir.

Q. When the door was wide open? A. Yes sir.

Q. What are the conditions of light when doors wide open? A. It is dark, except small space probably within fifteen or twenty feet of the door itself.

Q. You stated that you had received at some time a statement from Bradstreet showing that this Company had manifest goods or warehouse receipts, manifest goods did you say? A. I think there is a statement, what the word they use I am not prepared to state, but it is either manifest or warehouse. The word Mr. Blake used in his statement is manifest.

Q. You don't remember whether any such statement was received before this visit or not? A. I couldn't state without I go and look at the statement.

223 Q. Did you ever receive from Bradstreet showing there were goods manifested or warehouse receipts at Stevens Point? A. No sir.

Q. You knew or could learn from that statement, they might have been deposited in a regular warehouse somewhere?

Objected to as we are going to get the statement.

(Witness goes to the hotel to get statement)

of
cDill.

Re-cross Examination by Mr. Robbins.

Q. Mr. McDill do you find that you received from Bradstreet a financial statement of the condition of this Racine Company about the 7th of April, 1903? A. Yes sir.

Q. Is that the statement? A. Yes sir.

Statement offered in evidence and marked Exhibit "12" Objected to.

Q. And that was received before you went down to go through the warehouse? A. Yes sir.

Q. And you knew of it when you went into the warehouse? A. Yes sir.

Q. You have a man by the name of Johnson connected with your bank? A. R. B. Johnson, yes sir.

Q. What is his position? A. Assistant Cashier.

Q. Did you on September 21st, 1903 receive a similar statement, a statement of Bradstreet also showing, containing a statement of its financial condition on January 9th, 1903 substantially the same as the one introduced here? A. Yes sir.

Re-direct Examination by Mr. Simmons.

Q. That last one you stated was when? A. September 21, 1903.

Q. That was just before the failure? A. Yes sir.

of
ohnson.

224 D. R. JOHNSON being first duly sworn on oath testifies as follows:

Examined by Mr. Simmons.

Q. You reside in Racine Mr. Johnson? A. Yes sir.

Q. And did you occupy a position with the Racine Knitting Company? A. Yes sir.

Q. What was your position with that Company? A. Cashier.

Q. You occupied that position did you at the time of the Bankruptcy? A. Yes sir.

Q. And how long prior to that? A. About seven years.

Q. Who kept the books there at the Racine office? A. I did.

Q. Now you are familiar with those, you know this warehouse building belonging to the Milwaukee & St. Paul Railroad Company which was occupied by the Racine Knitting Company? A. Yes sir.

Q. Who paid the rent on that building and what was the amount? A. Why the knitting company paid the rent $150.00 a year.

Q. For about how long a time prior to the Bankruptcy? A. Why I dont remember. B. B. and A. J. Blake paid it for quite a while, and then the knitting company. The lease was in the name of B. B. and A. J. Blake.

Q. I am asking you for how long prior to the Bankruptcy? A. I should say about three years probably.

Q. That the Racine Knitting Company had been paying the rent? A. Yes.

Q. And during that time for what purpose had they been occupying it? A. Why for this warehousing company and other storage purposes.

Objected to.

Q. Will you look at these bills fastened together and marked Exhibit "2"? A. Yes sir.

225 Q. And state whether those were in your possession as Cashier of this Company? A. They were yes sir.

Q. Are those the bills rendered by the Security Warehousing Company to Racine Knitting Company? A. They are.

Q. And were they paid by the knitting company with the exception of the last one August 31st? A. Yes sir.

Q. And what is the reason the one of August was'nt paid? A. Coming along where we didn't have any money and we let that one run and never was paid.

Q. Do you know Mr. W. B. McKeand? A. Yes sir.

Q. Was he during the years 1901, 1902 and 1903 an officer or director of the knitting company? A. Yes sir.

Q. What position did he hold either in the Directory or as an officer? A. From January 1900 to, I think it was January 1900 to January 1st, 1903 he was Vice President, and from January 1st, 1903 he was a Director.

Q. Was he also a Director during the time that he was Vice President? A. Yes sir.

Q. Do you know what Mr. McKeand's business is? A. Why Broker down there at Chicago.

Q. Note Broker? A. Note Broker, yes sir.

Q. Was he accustomed to handle paper of the knitting company? A. Yes sir.

Q. Will you state in what manner the business between the knitting company and Mr. McKeand as note broker was transacted? A. Why the knititng company would turn over to him paper of the knitting company to be sold, and he would at different times remit of Johnson.

to us proceeds of these notes, and if not placed he would return them at times.

Q. Did you keep a record of the notes which were presented to him for the purpose of negotiating the sale? A. Yes sir.

226 Q. And also a record of the notes for which he accounted for the proceeds? A. Yes sir.

Q. Have you drawn off a statement from the books of the Company showing a state of that account? A. Yes sir.

Q. Have you it here in Court? A. Yes sir (witness produces statement)

Q. Is this the statement Mr. Johnson? A. Yes sir.

Q. This is a correct statement is it Mr. Johnson? A. It is the way I figured it out, yes sir, I have'ent been able to get a statement of him, there is probably some interest which has never been reported to me.

Q. This is correct so far as the notes charged up to him and delivered to him for sale and statement of those he has reported on? A. Yes sir.

Q. I see opposite two of the notes on the credit side an interrogation point? A. That item of $2500. there was a note due on September 1st, 1903 and I could'nt find any correspondence relative to that item, but am taking for granted that was paid, which I am quite positive it was, and that item of $250. he says there cash $250. and it has never been explained to me who got that cash, therefore I dont know who ever got that $250.

Q. Did he report A. It was reported on that July 10th statement, and he had on 7th $250.

Q. But that you have not verified? A. No.

Q. Has this twenty-five hundred dollar note for which you have given him credit ever been turned into the company? A. I have never seen it.

Q. Have you since the company went into bankruptcy called on Mr. McKeand for a statement? A. I have.

Q. How many times? A. I think I was there twice.

227 Q And when, how long ago? A. Why it was shortly after the company went into Bankruptcy.

Q. On two occasions? A. I think it was two occasions.

Q. What did you say to Mr. McKeand? A. I told him I wanted to straighten up the account and would like to have a statement in full?

Q. Say anything about returning the notes? he had'nt accounted for? A. Yes sir, and a few days later we got a letter from him enclosing four notes, I think, which he said that he had over.

Testimon D. R.

Q. And those are not charged up to him? A. Those are not charged up here.

Q. And that is all the statement you got from him Mr. Johnson? A. Yes sir.

Q. Other than that one of July 10th since the bankruptcy? A. Yes.

Q. That leaves him indebted to the company in what amount? A. The way I figure it here it leaves $12380.29.

Q. And that is after giving him credit for the $2500 note which you have assumed that he paid, and the $250 cash which you hav'ent verified? A. Yes sir.

Mr. Simmons: We offer that statement in evidence.

Objected to.

Received and marked Exhibit "11"

Q. Mr. Johnson, I will ask you whether it was your duty as Cashier to take charge of these notes and send them out and keep track of them, and keep track of the proceed? A. Yes sir.

228 *Cross-Examination by Mr. Robbins.*

Q. You personally sent the notes to Mr. McKeand or gave them to him? A. I dont remember whether I did or not, sometimes they were mailed, and sometimes if I happened to go to Chicago I would hand them to him, or perhaps Mr. Blake would go in the office and hand them to him.

Q. Is this Exhibit "11" a statement of the books of the knitting company, or is it a statement that you have made up since? A. It does'nt agree with the statement exactly on the books.

Q. It is'nt a copy of the statement on your books? Is this a copy of an account appearing on your books, or is it a statement you have made up from letters and personal knowledge? A. It is not from the general Ledger, but it is from a book in which I have recorded all the notes which I gave him, together with the Ledger.

Q. You get the statement of notes then from this book, and where do you get the statement of commission? A. That is what I hav'ent got from him. Since the date there I hav'ent had any statement of commissions.

Q. Where did you get those items on this statement? A. From my books.

Q. They dont appear on your books? A. Yes sir, that is—

Q. Now this statement you offered is not a copy of any book statement, but a statement made up by you of your claim against Mr. McKeand, is'nt that about it? A. Yes sir.

y of Johnson.

Re-direct Examination.

Q. This statement shows all the debits and credits on the general Ledger does it against Mr. McKeand? A. Yes sir.

229 Q. And when you say that all of these notes don't appear upon the books, what books did you refer to? A. I meant on the General Ledger, of course it appears on the books of the knitting company, but does'nt appear right on the general ledger.

Q. Will you state what kind of book you keep for these notes? A. Just a small book specially for that purpose, wher I make a record of all notes that I give out, notes for such purposes.

Q. And this statement is made up from what appears on the general ledger and this note book? A. Yes sir.

Q. With reference to the bills rendered by the Security Warehousing Company to the knitting company, and paid by the latter, did you make a statement of those bills and the payment showing the aggregate total? A. Yes sir.

Q. Is this the statement (showing witness paper)? A. Yes sir.

Q. I find in this statement Mr. Johnson one item under date of April 14, 1902 $69.55 for which no bill is on file, did you make careful search for that bill? A. Why I did but I missed it, I don't know whether it was mislaid, I hav'ent been able to find the bill.

Q. That amount was paid? A. That amount was actually paid, yes sir.

Q. This is a statement of the payment actually made is it? A. Yes sir. That is from the beginning when we started business with this company up to date.

Statement offered in evidence and marked Exhibit "14"

y of w ch.

ANDREW DIETRICH being first duly sworn on oath testified as follows:

Examined by Mr. Simmons.

Q. You reside in Racine Mr. Dietrich? A. Yes sir.

Q. And your business is what? A. Real estate and Insurance.

Q. Are you one of the Trustees of the Racine Knitting Company in Bankruptcy? A. I am.

230 Q. And were you one of the Receivers of that Company appointed prior to the election of the Trustees? A. I was

Q. You were appointed one of the Receivers I believe on or about October 6th, 1903? A. Yes sir.

Testimon Andrew Dietric

Q. Did you immediately take steps to secure possession and control of the property of the knitting company? A. I did.

Q. You know this warehousing building or round house of the Milwaukee and St. Paul Railroad Company which has been referred to in the testimony here? A. I do.

Q. Did you visit that building for the purpose of looking after property of the Knitting Company? A. I did.

Q. Did you see down there these fenced enclosures inside of the building? A. I saw fenced enclosures yes sir.

Q. Did you find down there in the building property belonging to the knitting company? A. Yes sir.

Q. Was there property inside or outside of the enclosures or both? A. Both.

Q. What kind of property did you find outside of the enclosure and on the lower floor? A. Fifteen or sixteen cases of goods, and I believe they called it premium stock, desks and tables etc., crating.

Q. What did you do with those in order to preserve them? A. We had them removed to the Wisconsin Street warehouse in the office building.

Q. Did you take any steps to secure possession of the property enclosed in the enclosure? A. Placed locks on three of the gates of these enclosures.

Q. On which gates or doors? A. One each on the lower floors and one at the head of the elevator.

Q. The elevator was the method by which the goods were placed on the second floor and removed from it? A. I should judge so.

231 Q. That was your understanding in placing the lock there? A. Yes sir.

Q. Do you know now as a matter of fact that there were two doors or gates at the top of the elevator shaft on the second floor? A. I did'nt at that time, I know now.

Q. You only saw the one at that time? A. I did.

Q. And that was the one on which you placed the lock? When did you first ascertain that there was a second door or gate up there? A. This morning.

Q. But there were some padlocks as I understand on these doors at the time you placed the Recivers padlocks? A. Yes sir.

Q. Were these locks placed on while you were acting as Recivers and soon after you were appointed? A. Yes sir.

Q. About how far apart were the padlocks, that is those placed on there by you from the others that were on there previously? A. I should judge about a foot.

Q. And the padlocks put on by you are locked by you? Yes sir.

Q. So as to securely close this entrance so I will ask you wheth after they were locked entrance could be obtained without yo consent, without the key held by you? A. No sir.

Q. You held the keys to these padlocks? A. I have except gave them to the appraisers to go down and appraise the stuff, othe wise they have been in my possession all the time.

Q. Did you put the padlocks on yourself personally? A. Y sir.

232 Q. So that you in doing so you necessarily had to be ve close to the padlocks that were on there previously? A. Y sir.

Q. Did you ever see the name of the Security Warehousi Company on those other padlocks? A. No sir.

Q. I dont know whether or not you had any conversation wi Mr. Amend or other employees under the Recivers with referen to letting any goods go out of there? A. I did'nt personally.

Q. Did you assist in making a measurement for the purpose making a plat of that building down there? A. I did.

Q. I will ask you if this is a correct representation of that a the location of these enclosed spaces? A. Yes sir, first floor.

Q. And does this plat indicate the method of entrance into t warehouse? A. Yes sir.

Q. In order to enter the warehouse you have to pass throu the roundhouse as indicated here? A. Yes sir.

Q. That is occupied by the railroad company as a round hou is it? A. Yes sir.

Plat offered in evidence and marked Exhibit "13"

Q. Is that a corerct representation substantially correct of t building as you found it in and these spaces? A. Yes sir.

Cross-Examination by Mr. Robbins.

Q. When you went to place these locks on the door after y were appointed Receiver you found the locks of the Security Wa housing Company? A. Found locks on there yes sir.

Q. They are there yet? A. I suppose so.

Q. And they were on the only doors that gained admission those enclosures? A. On the doors that I placed locks on.

233 E. B. HAND being first duly sworn on oath, testified as follows:

Testimony o
E. B. Han

Examined by Mr. Simmons.

Q. You reside in Racine Mr. Hand? A. Yes sir.

Q. You are an attorney at law? A. Yes sir.

Q. And are you at present one of the Trustees in Bankruptcy of the Racine Knitting Company? A. I am.

Q. And prior to your election as Trustee were you one of the Receivers appointed by the District Court? A. I was.

Q. Along with Mr. Andrew Dietrich? A. Yes sir.

Q. You were appointed I believe on or about the 6th of October? A. Yes sir.

Q. Did you on or about that date learn of the fact that these so-called manifest goods were in store at Racine and Stevens Point? A. I did.

Q. Did you learn about that time that a considerable quantity of the goods had been removed by Chicago Banks shortly before the failure? A. I did.

Q. What steps if any did yourself and Mr. Dietrich the co-receiver take to secure the possession of that property if any? A. We telephoned Mr. Pugh who was the local manager at Stevens Point to allow none of the goods to be taken from the warehouse there, and further gave the same direction to Mr. Amend, and also Mr. Dietrich, after consultation with myself placed locks upon the premises in Racine.

Q. Did you immediately engage Mr. Pugh as Manager of the Stevens Point plant? A. We did.

Q. And these instructions were telephoned to him? A. They were telephoned to Mr. Pugh, yes sir.

Q. On what day? A. I think it was either a day or two after our appointment. I think it was October 7th.

234 Q. Have you been down in this warehouse here in Racine frequently since your appointment as Receiver? A. No, not frequently.

Q. How many times? A. I think twice is all I have been down.

Q. Did you see the locks placed on those doors by Mr. Dietrich? A. I did.

Q. Did you see these other padlocks that testimony has been given in regard to that were on there before? A. Yes sir.

Q. You passed close to them? A. Yes sir.

Q. Locked at them? A. Yes sir.

mony of B. Hand.

Q. Did you ever see any name of Security Company upon of them? A. I never noticed it no.

Q. Very soon after your appointment as Receiver were called upon by Mr. James D. Woley an attorney of the First tional Bank of Chicago? A. Yes sir.

Q. With reference to these so-called manifest goods? A. sir.

Q. In whose interest did he advise you that he came?

Objected to.

Referee: He may answer.

A. Mr. Woley stated that he represented at first a bank Arlington and at their request he went to the Security Compan Chicago and demanded the goods covered by the receipts which Arlington Bank held, and they instructed him to come to Racine see if they couldn't get the goods. That is my recollection.

Q. And did he make the request of you as one of the Recei to surrender these goods? A. Yes sir stated that we migh under serious liability for holding them.

235 Q. To whom? A. He spoke particularly of the Warehou Company.

Q. What was the result of the interview? A. We told him we would give him a definite reply in a few days.

Q. And did the Receivers direct anybody to make reply to Woley? A. Yes sir we directed our attorneys.

Q. Cooper, Simmons & Nelson? A. Yes sir.

Letter offered in evidence and marked Exhibit "15"

Objected to.

Testimony closed.

State of Wisconsin, } ss.
Racine County. }

Estelle J. Glass being first duly sworn deposes and says tha is the Stenographer who took the foregoing testimony in the a entitled matter in shorthand, and that the foregoing is a true correct transcript of her said notes, with the exception of Pages to 155 thereof which were taken by a substitute.

Estelle J. Glass

Sworn to before me Feby. 17 '04

Charles H. Lee,
Referee in

Stipulation

236 UNITED STATES DISTRICT COURT.

Eastern District of Wisconsin.

In the Matter of the Racine Knitting Company, Bankrupt. } In Bankruptcy.

Further testimony taken on special reference in the above entitled matter of the 19th day of February, 1904 before Referee Charles H. Lee, at Racine, Wisconsin.

Appearances:

Same as in the beginning.

It Is Hereby Stipulated that for the purposes of the pending petitions of Security Warehousing Company and W. B. McKeand, said W. B. McKeand shall be considered a holder for value of the notes amounting to $6800.00 introduced in evidence, and of the storage receipts claimed as collateral thereto, with the understanding, however, that the claim of said McKeand as a creditor of Bankrupt may be hereafter heard upon its merits before the Referee, and that the Trustees may interpose any legal objections or offset to same,—and any decree in his favor in this proceeding, either for the amount of said notes or for the property covered by said receipt shall not be conclusive on the Trustees, but shall be subject to be satisfied by order of the Court, to the extent that it shall be adjudged upon such subsequent hearing of said McKeand claim, that said claim is not a valid claim or is subject to abatement by reason of payments or offsets.

Mr. Simmons: There are some letters here which I had marked for identification on the last Meeting marked 2, 3, 4, and 5 which hav'ent been offered in evidence. I desire to offer them in evidence. I find there is one other which I did'nt have marked for identification which seems to be the letter to which the one offered in evidence is an answer.

237 Letters received and marked as follows:

Letters offer in evidenc

Letter from Security Warehousing Co. to Racine Knitting Co. Jan. 5th, 1903 and reply thereto marked Exhibit "16"

Letter from Security Warehousing Co. to Anna S. Eilers Sep. 25th, 1903, and reply thereto, marked Ex. "17"

Letter from Security Warehousing Co. to Anna S. Eilers Oct. 1st, 1903, marked Exhibit "18"

Letter from Security Warehousing Co. to Anna S. Eilers Oct. 3rd, 1903 and reply thereto marked Exhibit "19"

Letter from Security Warehousing Co. to Anna S. Eilers Oct. 5th, 1903 and reply thereto, marked Exhibit "20"

rs offered
evidence.

Sample padlock offered in evidence by Petitioners and marke
Exhibit "P".

It Is Admitted subject to objection as to competency or ma
teriality that none of the warehouse receipts or storage receipts o
fered in evidence have been filed for record in the City Clerk's o
fice either at Racine or Stevens Point, either the originals or a
copies thereof.

It Is Stipulated that the schedules of this Bankrupt show a
indebtedness of $344,000.00, and the inventory of assets show
about $118000.00 exclusive of the so-called manifest goods, su
ject to same objection as above.

It Is Stipulated that the last time the Citizens National Bank o
Stevens Point made a loan to the Racine Knitting Company wa
Aug. 11, 1902 and the same were renewed from time to time a
they matured and during the year 1903.

Subject to same objection as above.

mony of
rles W.
yes.

238 **CHARLES W. HAYES** being duly sworn on oath testified a
follows:

Examined by Mr. Robbins.

Q. Mr. Hayes, what if any connection did you have with th
Racine Knitting Company? A. I was the Superintendent of th
Stevens Point plant.

Q. During what period? A. From 1901 until September 190

Q. Do you know G. E. McDill of Stevens Point? A. Yes I
know Mr. McDill.

Q. Do you recall Mr. McDill's coming to the factory at Steven
Point at any time to look about? A. Yes, he was there at th
factory as a member of a committee, I think to look over th
plant.

Q. Do you remember when that was? A. I have an impressio
that was in the summer of 1902, I am pretty sure.

Q. What leads you to that impression? A. The princip
thing that I base my recollection on that transaction is the fact tha
we were building a new brick building, and we started it I think be
fore the frost was out of the ground, and finished it as quick as w
could and finished it in the summer of 1902. That is the only thing
that I have to fasten that in my mind.

Q. How do you connect that with Mr. McDill? A. Why he
came out. There had been an application for an increase in the
line at the Bank and he came out to see what additions had been
made to the value of the real estate prior to making that loan.

Testimony of Charles W. Hayes.

Q. And what was the condition of the building at that time, the new building? A. It was completed and we were moving in I think. We had just moved in, but had'nt got set up.

Q. Now is that the only time that you recall of Mr. McDill
239 coming down there to look over the property? A. That is the only time I remember seeing him there.

Q. Do you remember about this enclosure of the Security Warehousing Company in the warehouse in Stevens Point? A. I do.

Q. Did Mr. McDill ever ask you why that enclosure was locked and did you in answer to any such inquiry state to him that the goods were being stored in there for the fall trade, the manufactured goods, and that the object of locking them in that enclosure was to keep your own employees from pilfering?

Objected to. Objection overruled. Exception.

A. I did not.

Q. Do you recall any such conversation? A. I do not.

Q. What kind of goods were placed in this enclosure of the warehousing company? A. Finished product of underwear.

Q. How were they put there, in loose or in boxes? A. Packed in packing cases just as we pack them to ship.

Q. Were the boxes nailed up? A. Oh yes, just as we would pack them.

Q. Were there any goods kept in the warehouse outside of this enclosure? A. Yes, the warehouse was used as a warehouse for yarns and materials for the factory.

Q. Were any manufactured goods kept there? A. Some.

Q. And how were they kept? A. They were kept in paper boxes, regular shelf boxes.

Q. Loose? A. Loose on the shelf.

Q. So that anybody could go into a box and take it out? A. Yes they were not tied together or nailed up, just as in the store.

Q. Were goods of all the kind you manufactured kept that way in the outer warehouse? A. Yes that was our stock room,
240 as fast as finished we took it in there and put it on the shelf.

Cross-Examination by Mr. Simmons.

Q. There were other goods put inside of this enclosure besides finished goods were there not, those fenced enclosures? A. No sir.

Q. Were'nt there yarns in there? A. There were yarns in cases.

Q. Inside of this paling? A. Yes sir.

Q. Those are not finished goods are they? A. No, it is material.

ony of ries W. yes.

Q. Then there were materials, raw materials as well as finis goods in there? A. In the enclosure, yes sir.

Q. At this time that you say you remember Mr. McDill's bei there was that enclosure inside of the warehouse? A. I don't derstand your question quite.

Q. You said you remember Mr. McDill's being there only o some time in the year 1902 at that time when you remember being there was this enclosure built inside of the warehouse? I think not.

Q. And you hav'ent any recollection of his being there at ot times? A. I have not, no sir.

Re-direct Examination by Mr. Robbins.

Q. The yarns that were not inside of the enclosure, how w they? A. In packing cases same as manufactured goods.

Q. Were the packing cases nailed up in the same way? Yes sir.

Q. I neglected to ask you in the beginning what your pres employment is? A. I am manufacturing underwear.

Q. Are you in any way connected with either the Racine K ting Company, the Receivers, or the Security Warehousing C pany, or any of the holders of these receipts? A. I am

241 Q. And have you in any way ever been connected with Security Warehousing Company, or any of these receipt h ers? A. No sir.

ony of H. Banks.

W. H. BANKS recalled for further

Direct Examination by Mr. Robbins.

Q. Mr. Banks, Mr. Pugh has said something about a sign the rear of the enclosure at Stevens Point being on the floor af you had been there in September, did you see that sign when were there in September? A. It was posted up on the rear end the enclosure and left thoroughly nailed up.

Q. Did you see the sign after the goods had been removed? I was there at the last minute and locked the door.

Q. At the time you locked the door to leave the place was was not the sign posted in the rear? A. The sign was pos there.

Q. Did the Security Warehousing Company know of any go

Testimony o
W. H. Ba

being put into your enclosures at Racine other than goods upon which your receipts were or were to be issued?

Objected to as immaterial, irrelevant and as leading.

Referee: You can ask him what he knew. You have already shown that he was the managing officer of this district.

Q. What knowledge did you have as to whether there were any goods other than those upon which you had already or were to issue your receipts being put into either of your three enclosures at Racine?

Objected to as immaterial and irrelevant. Objection overruled.

A. Never had any knowledge of any goods being in there other than our own.

242 Q. What if any knowledge did you have at any time of there being any substitution of goods by the putting in of socks in place of others taken out from the boxes?

Referee: That won't do, ask him what he knew.

Q. What do you know about any substitution of goods in your enclosures at Racine?

Objected to as immaterial. Objection overruled.

A. I never knew of any substitutions and none were ever authorized or allowed.

Objected to, and ask that the last part of the answer be stricken out as not responsive.

Witness: None ever authorized by me as district manager.

Re-cross Examination.

Q. Mr. Banks, you knew that goods were being stored by the Racine Knitting Company down here at this warehouse outside of those fences did'nt you? A. Yes—no I did'nt know anything about that of my personal knowledge.

Q. You knew from reports made to you that there were? A. No reports ever made of goods being stored.

Q. What do you mean when you said that you heard that they were being stored? A. I knew they were occupying the premises, and supposed they were occupying with goods, but I didn't know anything about it.

y of McKeand.

W. B. McKEAND being first duly sworn on oath, testified as follows:

Examined by Mr. Robbins.

Q. Mr. McKeand are you one of the claimants of this proceeding? A. Yes sir.

Q. Four notes amounting to $6800.00 have been offered in 243 evidence here in support of your claim. At the time you received any of those notes from the Racine Knitting Company or at the time you advanced any money to the Racine Knitting Company on account of any of those notes, what information, if any did you have respecting the premises upon which the property was stored that is referred to in the warehouse receipts under which you are claiming in this case?

Objected to as immaterial and irrelevant. Objection overruled.

A. I didn't have any information.

Q. Had you ever visited the premises upon which the property was stored? A. I visited the premises of the Racine Knitting Company at various times, but I have never made a special inspection of how this property was stored.

Q. Did you ever visit the round house or machine shop? A No sir. I never saw it, my recollection.

Q. Did you ever visit Stevens Point? A. I have been t Stevens Point, yes sir, long before I ever loaned the company an money, or two years before that time.

Q. Were you in Stevens Point after January 1903? A. N sir.

Q. What if any knowledge did you have respecting what th character of the possession of the warehousing company? A. B fore I ever took any of those receipts I asked the First Nationa Bank of Chicago if they considered receipts issued by your Con pany good, and they stated to me that they considered them pe fectly good, without any further investigation I took the receipt

Objected to as hearsay.

Q. That constitutes all the investigation you have ever mac on the subject and all the knowledge you had on the subjec

244 A. They said they loaned money on your receipts, and I too their word, I being a customer of theirs.

All the direct testimony of this witness was objected to in d time and form as immaterial and irrelevant.

Cross-Examination by Mr. Simmons.

Q. You knew that the goods which these receipts purported to cover were stored on the premises of the Racine Knitting Company did you not? A. No sir.

Q. Didn't you know they were in the warehouse of the Racine Knitting Company at Stevens Point? A. No sir. I did'nt. As I stated before I did not inform myself as specifically to where those goods were, in fact I don't believe I knew at the time of taking those notes just exactly where the stuff was stored. I presumed that the Security Warehousing Company as a warehousing company was protecting me. I investigated them and took their receipts.

Q. Did you inquire whether the Security Warehousing Company had any warehouse anywhere? A. No sir.

Q. You didn't know of their having any warehouse anywhere? A. I would presume that they must have a warehouse.

Q. You don't know of their having any warehouse anywhere? A. I supposed they had a warehouse down here at the St. Paul round house, my information was that was where they stored their stuff here.

Q. You did have information that it was stored down to that warehouse? A. Yes sir.

Q. You knew Racine Knitting Company was paying the rent on that round house did'nt you? A. I did not, no sir.

Q. You knew the Racine Knitting Company had been using that as a store house did'nt you? A. I did not.

245 Q. Were you a director of the Racine Knitting Company? A. I was.

Q. And also an officer? A. Had been an officer for nearly two years. I was'nt an officer at any time I loaned them any money.

Q. You was a director, however, was'nt you? A. Yes sir.

Q. Did'nt you loan them any money in 1902? A. Well possibly, the very last part of the year, the last two months of the year.

Q. You were an officer then, were you not? A. No sir.

Q. Were'nt you Vice President of that Company up to January, 1903 A No sir, I am not supposed to have any connection with the company after October 1903.

Q. What do you mean by not having any connection? A. I resigned as Vice President.

Q. You still were a director were you not? A. Yes sir.

Q. And also during 1903? A. Yes sir.

Q. Do you mean by that not having any connection with the Company? A. You particularly asked about being an officer of the Company.

f
Keand.

Q. It is having a connection with the company is'nt it? A. I tried to confine myself to your question.

Q. How did you happen to know that these goods at Racine were stored in the round house? A. I think Mr. Banks told me that.

Q. When did you inquire of Mr. Banks? A. I could'nt give you the date.

Q. Was it at the time you undertook to take some of this paper? A. No it was subsequent to that time.

Q. Was it while you were dealing in the paper? A. Yes.

Q. Did you ask Mr. Banks where the other goods were stored at Stevens Point? A. No, sir, I did'nt.

246 Q. Why did'nt you ask him about the Stevens Point end? A. I dont know.

Q. From whom were you accustomed to get this paper? A. Why from anybody that might come down with it from Racine, anybody connected with the knitting Company.

Q. Mr. Blake? A. Either H. S. Blake or D. R. Johnson, very often by mail.

Q. If you wanted to know about these goods why did'nt you ask Mr. Blake or Mr. Johnson? A. They were'nt the warehousing company.

Q. Is that the only reason? A. Certainly.

Q. So you mean to state as a matter of fact that you never asked Mr. Blake or Mr. Johnson where these goods were stored? A. I don't recall I ever asked them.

Q. Did they never make you a statement? A. No sir, I understood there was a warehouse built especially at Stevens Point.

Q. Wait a moment—I ask to have all that stricken out after the word "no sir"

It is agreed to be stricken out.

Q. Did you hear from anybody in regard to the storage of the goods at Stevens Point? A. My impression always was—

Q. Just answer the question. Did you hear from anybody in regard to the storage of the goods at Stevens Point? A. I cannot answer only in the way I started out to.

Q. You can answer whether you did or not? A. I did'nt hear directly, I did'nt receive any specific information no sir.

Q. You started to say something about your understanding about a warehouse being built at Stevens Point? A. Yes sir.

Q. From whom did you hear about a warehouse being built
247 at Stevens Point? A. I cannot tell you, from Johnson or H. S. Blake, but I understood that a warehouse had been built up there.

Q. By whom? A. I dont know who built it. Testim W. B.

Q. Did they tell you the Racine Knitting Company had built a warehouse? A. No sir, built up there for the purpose of these goods being stored.

Q. You think you heard that from Johnson or Blake? A. Yes sir.

Q. Did you ask them where that was built? A. No sir presumed in the neighborhood of the premises.

Q. When did you hear that? A. I think two years ago.

Q. Was that about the time that they commenced doing business of this kind at Stevens Point? A. I dont know sir.

Q. Did they tell you that they were about to begin business with the Security Warehousing Company? A. No, they had been doing business with the Security Warehousing Company or its predecessor for quite a long time prior to that.

Q. I am asking you about Stevens Point, when they told you about building this warehouse did they tell you they were about to begin business at Stevens Point? A. I think that was the reason for the warehouse being built.

248 REPORT AND FINDINGS OF SPECIAL MASTER. Repor

In the District Court of the United States

For the Eastern District of Wisconsin

In the Matter of the Racine Knitting Company, Bankrupt. } In Bankruptcy.

To the Honorable William H. Seaman, Judge of the District Court of the United States for the Eastern District of Wisconsin:

Pursuant to the Special Order of Reference made and entered in the above entitled matter on the 5th day of February, 1904 referring to the undersigned the petitions of W. B. McKeand, The L. C. Hyde and Brittan Bank, and The Security Warehousing Company, to take and report the testimony upon the same, with findings thereon, and to take such action as the said Referee should be advised in reference to sale of the property mentioned in said petitions, either exempting the same from present sale, or providing for separate sale and the payment of proceeds into Court;—I, Charles H. Lee, the Referee aforesaid, do hereby respectfully certify and report:

That pursuant to said Order I was attended by counsel for the respective parties, the said petitioners, the receivers and trustees herein, and the Citizens National Bank of Mukwonago on the 11th day of February, 1904, and upon the several days thereafter set forth in the record of the testimony and proceedings which is herewith returned.

I further certify and report that upon proceedings then pending before me as general referee in said matter on petition of the said Trustees to sell the property of the Bankrupt, including the property in dispute upon this Reference there was an intervention by the Citizens Bank of Mukwonago, and it was thereupon agreed
249 that the Answer of the said Citizens Bank of Mukwonago to the
Trustees petition for sale should be considered as their petition upon this special reference, and should be deemed to be answered by the answer already put in by the said Receivers and Trustees to the other petitions upon said special reference with a like effect as if the said Bank had appeared as one of the special petitioners. It was also agreed that replications should be waived in all cases and the petitions be deemed to be properly at issue, and that all exceptions to the Report herein might be made to the Judge of the District Court direct with the same effect as if taken before the Referee in the course of the proceedings.

I further certify and report that having heard the testimony and the arguments of counsel herein I find and report the following

MATTERS OF FACT.

1: That the Racine Knitting Company, the bankrupt, is and was during the periods involved in this Reference a Wisconsin corporation, organized for the manufacture of knit goods, hosiery, and underwear, having its principal office at Racine, and factories at Beloit, Stevens Point, and Ripon.

2: That the Security Warehousing Company is and was during the same periods a corporation of the State of New York licensed to do business in Wisconsin under Section 1771b of the Revised Statutes and Acts amendatory thereto, and was engaged in the business of "field warehousing" so-called, owning no warehouses of its own and not occupying any public warehouse at any place; its general method of field warehousing being the leasing of portions of storehouses or buildings or lands occupied in whole or in part by
250 the owners of the goods to be stored. The particular methods
pursued in the present case being more fully set forth below.

Its corporate purposes, as set forth upon its letter heads, being stated to be the "warehousing of manufactured stocks and raw materials for purposes of collateral security, or as a medium of purchase and sale and guaranty of possession while remaining on premises of original owner." The same letter head also contained the words "public warehousemen". This style of advertising itself was in use in October, 1901 and for some time thereafter, but was abandoned later on except as to the words "Public Warehousemen," although at what precise date does not appear. The only reason for the change being stated by the witness Banks, its District Manager" that the supply of the older form was exhausted. The Warehousing Company has never complied with Chapter 251, Laws of 1899 of this State.

3: In October, 1901 the Racine Knitting Company executed an Agreement of Lease to the Security Warehousing Company (Exhibit "A") of certain premises at the City of Racine, which are described in such agreement as "the entire first and second floors of brick building known as Chicago, Milwaukee & St. Paul Railway Company's premises, formerly occupied as a machine shop, situate Lots 5 and 8, Block 6, Harbor Addition to City of Racine; said floors measuring 40 feet from North to South by 60 feet from East to West." This Lease was for the term of one year, and so long thereafter as any property should remain upon the premises for which receipts of the Warehousing Company were outstanding and in force "and until duly released of record, for a yearly rental of One Dollar and other good and valuable considerations, the receipt 251 of which in advance is hereby acknowledged". It was further stipulated therein that the leased premises should be used and occupied exclusively for the storage of personal property and for the transaction of business connected therewith on the part of the Warehousing Company. That the latter should have, for purpose of inspection or removal of property, convenient access through any part of thw abutting premises occupied by the lessor. The premises so leased were not in fact wholly occupied by the lessees, but only the second floor and those portions of the first floor marked Sections "A" and "C" on the plat Exhibit "M". The remainder being occupied by the Bankrupt and other parties for storage purposes.

A further and similar lease as to its terms was executed between the same parties, dated January 24th, 1903 (Exhibit "C") of a part of the floor space 50 feet by 30 feet in the storage warehouse of the Bankrupt situated upon its factory premises at Stevens Point and hereinafter more fully described.

4: Cotemporaneously with the execution of these leases the parties thereto entered into Agreements in form as shown by Exhibit

Master. "D" setting forth among other things that the Knitting Company desired the Security Company to received and issue storage receipts for certain of its goods and warranting the premises suitable for the purpose, agreeing to keep the same in repair and indemnify the Warehousing Company against loss, damage, or destruction of the property, and to pay beside the specific storage charges and expenses, the amount of custodian's salary up to Five Dollars per month, the charges for storage being based upon the value and not upon the bulk or physical character of the goods to be stored.

252 5: Pursuant to such arrangements the parties thereto caused to be stored in the premises described in these leases certain of Bankrupt's goods, both at Racine and at Stevens Point, for which the Warehousing Company issued and delivered to the Bankrupt twelve warrants or storage receipts upon the goods at Racine, and other twelve similar instruments on the goods stored at Stevens Point, in tenor and effect and general form as shown by Exhibit "B" of which storage warrants six were delivered to The Hyde and Brittan Bank as security for notes to the amount of $5300.00, of which notes or renewals thereof copies are shown in Exhibit "E", and delivered the remaining eighteen receipts to the petitioner McKeand, five of which were subsequently transferred to the Citizens Bank of Mukwonago as security for a note of Two Thousand Dollars held by said Bank, of which note or renewal thereof a copy is shown at Exhibit "F", and the petitioner McKeand holds the remainder as security for notes to the amount of $6800.00, copies of which notes or renewals thereof are shown at Exhibit "G".

Upon the issue of such storage receipts manifests of the goods therein mentioned were made and certified to by the Bankrupt and by the person named as custodian by the Warehousing Company; at the foot of each manifest was appended the certificate of the Warehousing Company, signed by its District Manager that storage receipts had been issued upon the property and giving the numbers used for identification (see Exhibit "H"). The storage receipts or warrants recited the receipt of the therein designated goods to be
stored, subject to the order of the Racine Knitting Company,
253 which latter Company caused them to be severally endorsed in
blank by a proper officer, and these warrants are the same warrants held by the several petitioners and claimed by them to confer title and the right of possession to the property therein referred to as security upon the several promissory notes held by the respective claimants and above referred to. It is admitted for the purposes of this reference that the petitioners received the several notes and warrants purporting to secure the same, as stated and claimed by them and are the holders thereof, or of notes taken in renewal and

extension of the original notes upon the same alleged security except that as to the petitioner McKeand his claim is disputed by the Receivers and Trustees, who claim that upon the adjustment of unsettled balances between himself and the Bankrupt he would be found to owe the Bankrupt-Estate. As such claims must be determined, in the opinion of the Referee, upon objections filed to McKeand's Proof of Debt, in the ordinary course of procedure and not upon this reference, neither party is to be concluded or prejudiced by anything on this reference as to the amount of McKeand's claim, or any offsets, counter-claims or objections that the Trustees may have interposed or be advised to interpose hereafter.

6: That the several petitioners and receipt holders The Hyde and Brittan Bank, Citizens Bank of Mukwonago and W. B. McKeand at all times prior to the institution of the Bankruptcy proceedings were unacquainted, either from inspection or inquiry with the physical nature of the storage of the manifested goods, or the Warehousing methods of the Security Warehousing Company, and did not inquire with respect thereto either of the Warehousing Company or the
254 Knitting Company, but did make inquiry as to the standing and reputation of the Warehousing Company and were satisfied therefrom that such standing and reputation were good and relied thereon and upon the contents of the storage receipts themselves. But, that the Citizens Bank of Mukwonago understood that its manifest goods were stored in buildings belonging to or occupied by the Bankrupt, and the petitioner McKeand was at all times a Director of the Bankrupt, and part of the time an officer thereof and was informed after the acceptance of the storage receipts and notes purporting to be secured thereby that the goods referred to in such storage receipts were stored in the Warehouse building of the Railway Company at Racine, in part used by the Knitting Company, but had not seen and was not specially acquainted with the storage premises leased to the Warehousing Company.

7. The custodians in local charge of the warehoused goods, both at Racine and Stevens Point, and their respective deputies, were employees of the Bankrupt at all times prior to the institution of the Bankruptcy proceedings, were selected and nominated by the Bankrupt, but received their appointments from the Warehousing Company, which appointments, and instructions and agreements for their compensation and the designation of their prescribed duties were set forth in written contracts in form and substance in all respects as shown by Exhibit "J", and all expense incident to the storing arrangements, such as fees and cost of indemnity bonds of custodians,

storage charges and travelling expenses of the Warehousing
255 Company and its servants for purposes of inspection, delivery
and the like were charged to and collected from the Knitting
Company.

8: The premises so as aforesaid leased by the Bankrupt to the
Warehousing Company at Stevens Point consisted of a floor space
thirty feet by eleven feet on the inside of the Bankrupt's store-room,
separated from the remainder of such store-room by a substantial
slatted enclosure or fence-like paling of boards from floor to ceiling
built by the Engineer of the Knitting Company and at its instance,
and provided with a sliding door at the North end at the point marke
"X" on Exhibit "I", which door was constructed in like manne
and locked by a suitable padlock of the "jail-lock" type about tw
inches square made of bronze and marked "Premises of Securit
W'h's'g. Co. of N. Y. Chicago, Ill." The first two and the las
two words of this legend being in raised letters and the balanc
in stamped or depressed letters on each of the two faces of the pad
lock; said letters being about one-sixth of an inch in height, th
raised letters showing clearly in ordinary light, the stamped letter
indistinct but legible in a good light. The lock was affixed by th
Warehousing Company and the key delivered to its appointed cu
todian by the Warehousing Company, whose Manager had also
pass-key to all the locks of his Company. The custodian at Steve
Point was during all the time Cashier of the Bankrupt, having al
principal charge of its stock of goods and materials at Steve
Point and who kept the key upon a ring, with other keys, both pe
sonal and those of the Bankrupt in or upon the Cashier's de
during office hours where the same was accessible and occasional
used by the Manager of the Knitting Company, and at oth
256 times the key was kept upon her person. The door was ke
locked except when necessary to enter the enclosure. Upon t
inside of the enclosure over the door and at the further end
the enclosure were fastened up cardboard signs "at points X a
Z Exhibit "I" ", which signs were upon substantial manila boa
printed in black letters of good size and of which Exhibit "K" i
specimen. In September 1903 just before the institution of Ba
ruptcy proceedings the sign over the door was removed by the Wa
housing Company and replaced upon the door itself outside
enclosure. Upon the cases of goods were put small cards of ide
fication like Exhibit "L" stating the property to be in the posses
of the Security Warehousing Company. The boxes and cases w
piled six to seven feet high, and there were also boxes and ca
piled in the warehouse outside the paling, and this outer space

pears to have been crowded much of the time to such an extent as to preclude observation of the large signs without climbing upon the boxes. As to light the testimony is conflicting; there were two windows hung with close shutters, and unless the shutters were open there could have been very little light, and when opened some of the light would be cut off by the piles of goods in store. Access to the enclosure itself was possible only by way of the door "y" leading out of the warehouse building and through the store-room to the door "x"; this door "y" being secured only by the lock of the Knitting Company to which there were two keys kept on its premises and accessible to its servants, but to which the warehousing company had no key, and could gain access to the building only by using one of the keys of the Knitting Company. The store-house was mostly invisible from the street on which the factory premises of the Bankrupt fronted and of which premises such store-house was an integral part, and the property was enclosed by a fence with three gates on the west or side farthest from the store-room, one of 257 which must be passed to gain access to the store-house building. There were no signs or marks on the outside of said building or any part of the factory premises indicating any occupation or use by the Warehousing Company, or that it had thereon any goods in store.

9: The premises so as aforesaid leased by the Bankrupt to the Warehousing Company at Racine and used by the Warehousing Company consisted of the floor space of the second floor, and part of the first floor of a two story brick building owned by the C. M. & St. P. Railway Company, part of which building was leased by it to the Knitting Company (see Plats Exhibit "M" and Exhibit "N" which are admitted as to the plats only and not as to any printed recitals thereon tending to support the petitioners contention). These premises are no part of the Racine plant or office property of the Bankrupt, but are situated several blocks distant therefrom. The floor spaces used by the Warehousing Company were enclosed by palings or fence-like partitions similar to those constructed at Stevens Point, but not extending more than ten or twelve feet above the floor, each having a hinged door secured by lock of the same description as that heretofore mentioned, and within these enclosures so constructed the manifest goods were placed. Access to the building is through an outside door forming a general entrance (shown at "V" on Plat Exhibit "M") used in common by the occupiers of the building and not secured; there were numerous windows and sufficient light. In each of the two enclosures Sections "A" and "C" (Exhibit "M") were placed one of the large card-board signs

above referred to, and one on the second floor on a beam near the
elevator and smaller signs like Exhibit "O" were placed on the
258 doors leading to the enclosures "A" and "C" and also one on
the stairway door. Signs were also placed on the inside of the elevator enclosure on the second floor, which enclosure was a paling similar to the enclosure "A" and "C" on the first floor, and small identification cards (Exhibit L) on each lot of goods stored or on each case. Where the cards were not placed upon each box the lots were separated by a narrow aisle or opening a few inches in width, and this method of storing and marking applied to the goods in all of the above mentioned enclosures. The enclosure about the elevator opened to the second floor by two doors ("xx" and "yy" Exhibit "N") fastened from the inside.

Goods were sometimes left in the enclosures by the Bankrupt after being released to prevent pilfering. Other goods not manifested belonging to the Bankrupt, principally "premium goods" so-called such as small tables and cabinets were stored in the same building, and on three or four occasions manifested goods were taken out of the enclosures by the custodian who was in the Bankrupt's employ and who took them out at the Bankrupt's direction and other goods were substituted therefor.

There were no signs or marks on the outside of the building indicating any occupation or use by the Warehousing Company or that any manifested goods were stored therein.

10: The Receivers and Trustees are in possession of the several buildings containing the manifested goods, but the locks of the Warehousing Company still remain upon the enclosures, and upon the
enclosures at Racine the Trustees have added locks of their
259 own, while at Stevens Point the Trustees control exclusively
all access to the building containing the enclosure within which are the manifested goods at that place, but the lock of the Warehousing Company is still upon the door leading to such enclosure, which door was temporarily removed by the Trustees or Receivers by taking off the hinges for the puropse of entering the enclosure.

11: Demand was duly made upon the Warehouse Company by each of the receipt holders of the goods called for by their respective receipts.

12: No testimony was offered upon this hearing by either party as to the desirability or advantage of selling the property in dispute with the remainder of the Bankrupt's Estate and transferring the claims thereon to the proceeds of sale, but testimony was offered by the Trustees upon hearing before the Referee on February 6th, 1904 upon the petition of the Trustees for an Order of Sale

Report of

of the property and plants of the Bankrupt,—of which these petitioners had notice and at which they were present by counsel,—showing that the property now in dispute was so situated and circumstanced that it could be best sold free of liens and thereupon the Referee so found and directed a sale accordingly, reserving the option of thereafter modifying such Order and exempting such disputed property from sale. The testimony taken upon such hearing is herewith transmitted. At the time of the hearing on February 6th the Referee had but just received the Order of Reference herein but had not received the petitions, answers or any papers
260 relating thereto and was not advised of the issues tendered by such petitions and answers.

* * * * * * *

Feb. 21, 1904

CHARLES H. LEE
Referee

Exceptions
petitioners
Feb. 26,

261 And same day, (February 26, 1904) Exceptions of the petitioners to said report filed as follows:—

United States of America }
Eastern District of Wisconsin. } ss.

IN THE DISTRICT COURT OF THE UNITED STATES

In and For said District.

In the matter of
Racine Knitting Company, } In Bankruptcy:
Bankrupt.

Exceptions of petitioners, other than the Citizens' Bank, to the report of the referee herein:

Security Warehousing Company, L. C. Hyde & Brittan Bank, and W. B. McKeand, except to said report as follows:

I. For that there is no evidence to warrant the use by the referee of the words "or occupied by" before the word "Bankrupt" in the 6th finding.

ions of
ioners, filed
26, 1904.

II. For that the referee failed to specifically find that the cu
todian's key at Stevens Point never was accessible to, nor used b
the manager of the Knitting Company. (See pp. 17, 42-43 of ev
dence).

III. For that the referee failed to find in the 8th finding th
size of the outside door of the warehouse at Stevens Point, whic
was six feet by six feet (See evidence, p. 168).

IV. For that in the 9th finding of fact the referee failed
262 find,—as the undisputed evidence shows— that all the doo
to the Security Warehousing Company's enclosures at Racin
were kept locked, and the keys thereof were always in the custod
either of the custodian Amend, or of the sub-custodian Netzinge

V. For that the referee does not find in the 9th finding of fa
that the sign "K" was placed on the inside of the elevator enclosu
on the second floor (evidence pp. 60-62).

VI. For that in the 9th finding of fact the referee does n
find that the two doors at the elevator opening on the second flo
were always kept locked, and the keys thereof were continuousl
in the custody of the custodian or sub-custodian.

Henry S. Robbins
Solicitor for Petitione

ions of
ees, filed
26, 1904.

263 And same day, (February 26, 1904) came the trustees b
their attorneys and filed exceptions to the findings of the re
eree as follows:—

IN THE DISTRICT COURT OF THE UNITED STATES

For the Eastern District of Wisconsin.

In the Matter of
Racine Knitting Company, } In Bankruptcy.
Bankrupt.

Now come E. B. Hand, Andrew Dietrich and G. E. McDi
Trustees in Bankruptcy of the above named bankrupt, Racine Kni
ting Company, and except to the report of Charles H. Lee, Esq
Referee, made under and pursuant to the special order of referen
herein, bearing date February 5, 1904, as follows:

1. Said trustees except to so much of the sixth finding of sai
referee as recites that W. B. McKeand was at all times prior t
the institution of the bankruptcy proceedings unacquainted eithe

Exceptions
trustees, fi
Feb. 26, 1

from inspection or inquiry with the physical nature of the storage of the manifested goods, or the warehousing methods of the Security Warehousing Company; also to so much of said sixth finding as recites that said W. B. McKeand "after the acceptance of the storage receipts and notes purporting to be secured thereby", was informed regarding the place of storage in Racine of the said manifested goods.

2. Said trustees except to the use of the word "fees" in the eleventh line of the seventh finding of said referee, as indefinite and liable to misconstruction, the more accurate expression and that evidently intended by the referee being "salaries of custodians."

264 3. Said trustees except to so much of the eighth finding of said referee as recites that the key to the fenced enclosure inside the warehouse building of the bankrupt at Stevens Point was, except during office hours, kept upon the person of its cashier, appointed custodian for the Security Warehousing Company, on the ground and for the reason that it appears by the undisputed evidence in the case that at several different times after the appointment of such custodian, she was absent from Stevens Point for periods ranging from one to ten days at a time, and that during such periods of absence said key-ring with the key to said fenced enclosure upon it was left with said bankrupt.

4. Said trustees except to so much of said eighth finding of the referee as recites that "as to light the testimony is conflicting", it appearing by the undisputed evidence that the front window to the warehouse building was almost, if not quite continuously kept closed, while the shutter to the rear window was kept closed except when some article was wanted, in that portion of the warehouse, when it was necessary to open it in order to find such article, so that the greater part of said warehouse was almost continuously in a state of practical darkness.

5. Said trustees except to so much of the ninth finding of said referee as recites "these premises are no part of the Racine plant, or office property of the bankrupt" unless in said phrase the words "Racine plant" and "office property" are intended to be synonymous, it appearing by the uncontradicted evidence in the case that the leased premises referred to were at all times a portion of the plant or premises at Racine occupied and used by said bankrupt in carrying on its business at said place.

265 6. Said trustees except to so much of said ninth finding of the referee as recites that the door shown at "V" on plat Exhibit M was used in common by the occupiers of the building; for

that it appears by the undisputed evidence that the only persons rightfully using this entrance were the Racine Knitting Company and the Chicago, Milwaukee & St. Paul Railway Company, owner of the building, which had a small office room in the Northeast corner wherein a small amount of property belonging to it was stored, while the J. I. Case T:M. Co., which had at some time acquired possession of the southwest corner of said building, had access thereto only through a door at the westerly end of the building.

7. Said trustees further except to so much of said ninth finding as recites the goods were "sometimes" left in the enclosures after being released; it appearing by the undisputed evidence that such practice was continuous during the period of alleged warehousing business between the bankrupt and the Security Warehousing Company.

8. Said trustees further except to the report of said referee for the reason that the same fails to find all the material facts in the case, as established by the evidence, or to find either affirmatively or negatively respecting such material facts.

9. Said trustees except to said report particularly for that said referee omitted to find that the rent for the building owned by the C. M. & St. P. Ry. Co. at Racine, and referred to in the ninth finding of said referee was $150. per annum, which rent for several years prior to the making of the contract between the bankrupt and the Security Warehousing Company had been paid by the Racine Knitting Company as tenant, and which rent said Racine
266 Knitting Company continued to pay after said contract down
to the time of bankruptcy, and that said Security Warehousing Company paid no rent whatever for the premises in form leased to it by the Racine Knitting Company either at Racine or at Stevens Point.

10. Said trustees further except to said report particularly for that said referee omitted to find, as established by the undisputed evidence, that the premises referred to in said ninth finding were used for storage purposes only, and were not accessible to the public, but that access to the same was gained only through the adjoining and connecting "round-house" building of the C. M. & St. P. Ry. Company occupied exclusively by that Company.

11. Said trustees further except to said report particularly for that said referee omitted to find, that the goods of the bankrupt in considerable quantity stored by it upon the first floor and outside the enclosures A & C in the building referred to in said ninth finding were during the period of pretended "warehousing" and possession by said Security Warehousing Company, removed by the

Exceptions
trustees,
Feb. 26, 1

ıkrupt and placed and thereafter kept along with the so-called
ıanifested" goods on the second floor of said building, and within
enclosure claimed to be in possession of said Security Company,
ere a portion of the same amounting to ten or eleven cases, re-
ined at the time of the bankruptcy, and from which they were
sequently removed by the receivers or trustees; none of said
ds having been at any time "manifested" or included in storage
rrants issued by said Security Company. Said removal from the
er floor and depositing in the enclosure upon the second floor
s accomplished by one August Cook, a teamster in the employ
of the bankrupt, and one Harry Netzinger, shipping clerk of
the bankrupt, who was entrusted with the keys to the enclosed
spaces by J. W. Amend, the appointed custodian of the Se-
ity Company.

12. Said trustees further except to said report particularly for
t said referee omitted to find, as established by the undisputed
dence, that about the month of May 1902, J. W. Amend, the
ointed custodian for the Security Warehousing Company, at Ra-
e, was made manager of the bankrupt's knitting factory at Be-
, and from that time until bankruptcy proceedings were begun
absent most of the time from the city of Racine, visiting said
but once or twice weekly, and during his absence he left the keys
he enclosures A & C and to the upper floor in said building de-
bed in the ninth finding aforesaid, with one Harry Netzinger,
was employed as shipping clerk by the bankrupt, so that the
l Netzinger had practically at all times free access to said en-
ures, and made frequent use thereof for the purpose of storing
removing goods not manifested, for and on account of said
krupt, in addition to occasional substitutions of manifested goods
ound by said referee.

3. Said trustees further except to said report particularly for
said referee omitted to find that the Security Warehousing
ıpany never had an office nor known place of business within the
e of Wisconsin.

4. Said trustees further except to said report particularly for
said referee omitted to find that none of the so-called ware-
e receipts or storage warrants in question were filed either by
inal or copy in the city clerk's office either at Racine or at Ste-
Point, as required by the law of Wisconsin relating to chattel
mortgages.

15. Said trustees further except to said report particularly
for that said referee omitted to find, as shown by the undis-
d evidence, that the manner in which the goods in question at

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Stevens Point were stored was calculated to deceive creditors of and persons dealing with said bankrupt, and in fact did deceive a creditor to-wit: the Citizens Bank of Stevens Point, whose cashier inspected its premises, including the warehouse building in question, in June or July of the year 1903.

16. Said trustees further except to said report particularly for that said referee omitted to find, as shown by the undisputed evidence, that the pretended occupancy by said Security Warehousing Company of the alleged "warehouse" premises at Stevens Point was secret, and was deliberately concealed both by said Security Warehousing Company and by the bankrupt.

17. Said trustees further except to the report of said referee particularly for that said referee omitted to find, as shown by the undisputed evidence, that the alleged occupancy by said Security Company of the so-called "warehouse" premises at Racine was also secret and intended so to be, and was deliberately kept secret both by said Security Company and by the bankrupt.

18. Said trustees further except to said report particularly for that said referee omitted to find, as shown by the undisputed evidence, that from the time of establishing the so-called "warehouse" premises at Racine and at Stevens Point, no officer, agent or representative of the Security Warehousing Company visited said premises until immediately prior to the bankruptcy when on Saturday, September 26, its manager together with representatives of certain Chicago banks holding storage receipts issued by it, made a hurried trip to Racine, and from thence on Sunday to Stevens Point,
269 for the purpose of removing the goods covered by such receipts,
which goods were at that time removed by them and shipped to Chicago, Illinois; and that such removal immediately followed, if it was not caused by a notice issued by said bankrupt calling a general meeting of its creditors to be held at Chicago on October 5, 1903.

19. Said trustees further except to said report, particularly for that said referee omitted to find, as shown by the undisputed evidence, that Miss Anna Eilers, the appointed custodian at Stevens Point, on one occasion at least, removed some of the manifested goods from the leased enclosure, and used the same in the business of the bankrupt; that such removals were at all times within the power of the bankrupt, acting either through her or through its local manager, and that her action and remarks at the time of the visit of the Security Company's representative to that city on Sunday, September 27, 1903, indicated the use of such opportunity on more than the one occasion referred to.

20. Said trustees further except to said report particularly for

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that the said referee omitted to find, as shown by the undisputed evidence, that W: H. Banks, manager of the Security Warehousing Company, deliberately and intentionally directed the placing of that Company's signs inside the enclosure at Stevens Point, and in such position that they could not be seen from the outside, where they remained until September 27, 1903, at which time he changed one of them and placed it on the gate facing outward.

21. Said trustees further except to said report particularly for that said referee omitted to find, as shown by the undisputed evidence, that said Security Warehousing Company immediately following the visit of its manager to Stevens Point on September 27, 1903, and in expectation of the impending bankruptcy of the
270 Racine Knitting Company endeavored to secure control of the alleged "warehouse or storage premises at that point by obtaining a key to the outer door of the warehouse, which was refused it, and further made efforts to obtain exclusive possession of the goods stored therein by securing independent storage room, outside the premises of said bankrupt, but did not succeed in accomplishing this before the bankruptcy and the appointment of receivers by this court.

(Signed) Cooper, Simmons, Nelson & Walker,
Attorneys for Trustees.

Opinion.

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OPINION OF THE COURT.

United States District Court

Eastern District of Wisconsin.

In re
Racine Knitting Company,
Bankrupt.
} March 30, 1904

On several petitions filed by claimants, under so called warehouse receipts issued by the Security Warehouse Company, for goods represented as stored with that company and held as collateral for loans made by the claimants to the bankrupt. The hearing arises upon the Referee's findings of fact and testimony submitted therewith, as taken before the Referee, and exceptions to the findings. To expedite the hearing, the matters are submitted to the court without findings of law by the Referee.

Henry S. Robbins:
for Petitioners
Cooper, Simmons, Nelson & Walker
for Trustees

Seaman, District Judge.

I am satisfied that the exceptions filed upon the one side and the other to the findings of fact should be overruled as either resting upon immaterial phases of the testimony, or not sufficiently supported by testimony to justify review. The substantial facts upon the issue of delivery and possession are well found and fully presented, so that no recapitulation is called for. Upon the questions of law, or mixed law and fact, involved in the controversy, I have examined carefully a large number of the authorities cited, pro and con and recognize both their importance—not only to the parties, but in their wide reaching effort—and the difficulties in the way of just solution. The conclusions I have reached, however, resting 272 upon preceedents which are deemed controlling, do not call for review of facts or authorities, nor for an extended opinion, in view not only of the probabilities of an appeal, but of pressure of other duties. But these propositions must suffice as the grounds for decree:

1. The contention that the trustee can defend only in the right of the bankrupt and is bound equally with the bankrupt by the alleged pledge, in the absence of fraud, cannot be sustained under the adverse ruling In re Rogers, 125 Fed. 169. Until otherwise determined by the Supreme Court that question is foreclosed, in this circuit at least.

2. The Geilfus case (95 Wis. 651) is decisive of these Wisconsin transactions, as to the status of the instruments in question, that they are not the warehouse receipts contemplated by the law and made negotiable, and that the bona fide holder obtains no better title as against the interest of creditors than was conferred by the original transaction. That decision is supplemented, and in effect confirmed, by the provisions of chapter 251, Laws 1899, and it is conceded that the socalled Warehousing company has not complied with section 2 of that act.

3. Upon the merits the sole question involved is this: Were the transactions on which the certificates were issued valid pledges of the goods described? The solution depends alone upon the adequacy or inadequacy of the alleged possession by the Security Warehousing Company. The form of the certificates and the general methods of business are identical with those described in the Rogers' case, supra, but important distinctions appear in the separation and purported custody of the "manifested" goods. So the inquiry hinges upon the sufficiency of the elements thus appearing to take the case of these petitioners out of the principles of that decision,

or to establish a contract of pledge under the authorities which Opinion
273 must otherwise govern the present transactions.

In reading cases cited on behalf of the petitioners and others which have been examined, I am impressed with the view that the distinctive requirement of a pledge—namely, delivery to and exclusive possession by the pledges—is not justly observed in all instances; that the statutory regulations as to chattel mortgages and the rules adopted thereunder in reference to the possession by a mortgagee which relieves from the need of recording, are instructive, if not controlling, on the question of possession under a pledge; and that the rule applicable as between vendor and vendee is not the true test for this contract (Menzies v. Dodd, 19 Wis. 346, 366) which may otherwise serve to evade the well settled statutory policy against secret liens. The tendency to extend the rule of constructive possession to the contract beyond the reasonable rule of need therefor on which the doctrine rests, is notable in some of the cases. In Seymour v. Colburn, 43 Wis. 67, 70 however, Chief Justice Ryan thus clarifies the requirements: "The rule is elementary, that possession by the pledgee is esential to a pledge; actual possession when practicable, constructive possession is impracticable." And the doctrine thus stated is plainly reaffirmed in the recent and pertinent case of Geilfus v. Corrigan, 95 Wis. 651. My deductions from these ruling cases, in the light of the Rogers case and other authorities upon the general doctrine, are: that no valid contract of pledge arises in this jurisdiction, in respect of goods whereof a change of possession may be made, readily and immediately, without actual, obvious and exclusive possession in the pledgee. In the cases under consideration it is unquestionable that the goods were thus removable, with ease and very slight expense, and were left on the premises for the
274 mere convenience of sale by the pledgor, when in the course of business sale was desirable and was so arranged with the alleged pledgee. It is true that they were placed in the enclosure fenced off from the wareroom and assigned to the Warehouse Company for that purpose, and so kept apart from other goods of the bankrupt, which were "unmanifested" and filled other portions of the ware rooms which formed a part of the general plant of the bankrupt—one at Racine and the other at Stevens Point. It is also true that forms of leases were entered into between the parties (including as well space so used by the bankrupt) which made the Warehouse Company lessee of this portion of the premises; that the Warehouse Company had lock and key for this enclosure, and custody thereof and of the "manifested" goods was placed in an employe of the bankrupt, who had charge as well of the bankrupt's

goods and business, either as chief or assistant; that signs were placed in and about the enclosure referred to bearing the name of the Warehouse Company, as claimant. It is equally true that the keys to and possession of the warehouse were constantly in the bankrupt, and that all access to the enclosed space, occupied by the "manifested" goods, was subject to leave and permission on the part of the bankrupt. The obvious purpose of the arrangement was to enable the bankrupt to carry on its business, in usual course, without the notoriety of chattel mortgages or the interruption of entire removal from its premises. I am of opinion that the device must be treated as mere subterfuges; as attempts to evade the statutes of the state—both in reference to chattel mortgages and to warehouse receipts or certificates—and that they cannot receive judicial sanction. In the language of the court in Dirigo Tool Company v. Woodruff, 41 N. J. Eq. 336, 345: "If the transaction
275 now claimed to be a pledge created a lien good against the world, I see no occasion for any credito to resort to the publicity of the chattel mortgage act to obtain security for his debt."

The petitions respectively must be dismissed for want of equity, and it will be so ordered as to each, with the costs of hearing to be taxed pro rata.

276 ORDER INSTITUTING THE TRUSTEES AS PARTIES

In the District Court of the United States.

For the Eastern District of Wisconsin.

In the Matter of Racine Knitting Company,
Bankrupt.
} In Bankruptcy.

Security Warehousing Company, W. B. McKeand, L. C. Hyde and Brittan Bank, and Citizens Bank of Mukwanago,
Petitioners,
against
Elbert B. Hand and Andrew Dietrich, receivers of the above named Bankrupt,
Respondents.

Now come Elbert B. Hand and Andrew Dietrich, receivers of the above named bankrupt, by Cooper, Simmons, Nelson & Walker, their attorneys, and give the Court to understand that their said receivership was practically terminated on or about the 9th day of December, A. D. 1903, at which time they surrendered the property of said bankrupt, including the property in controversy in this proceeding, to Elbert B. Hand, Andrew Dietrich and G. E. Mc.Dill, the duly appointed, qualified and acting Trustees of said bankrupt, since which time the said Trustees have in fact conducted the defense though not formally made parties hereto,—and move that said trustees be substituted as parties in the place and stead of said receivers, whereupon

It is Ordered by the Court that said Elbert B. Hand, Andrew Dietrich and G. E. Mc.Dill, as Trustees of said bankrupt be and they are hereby substituted for said receivers as parties to the above proceeding, and that the same be continued against said trustees, in all respects as if the petitions had been originally filed against them and the answers interposed by said trustees.

Made and entered this 16th day of April A. D. 1904, as of Dec. 10 A. D. 1903.

(Signed) Wm H. Seaman
Dist. Judge.

277 ORDER DISMISSING PETITIONS

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UNITED STATES DISTRICT COURT

Eastern District of Wisconsin.

In the Matter of Racine Knitting Company.
Bankrupt. } In Bankruptcy

April 23 1904.

This day came the parties by their counsel, and the intervening petitions of the Security Warehousing Company, W. B. McKeand, The L C Hyde & Brittan Bank, and the Citizens Bank of Mukwonago, came on to be heard upon the report of the Referee, the exceptions of both parties thereto and the testimony taken before the Referee, Mr. E. Merten appearing for the Citizens Bank of Mukwonago, Mr Henry S Robbins appearing for said other petitioners, and Mr John B Simmons for the trustees, and were argued by said counsel and submitted, on consideration whereof, pril 23. nissing

It Is Ordered that said petitions be, and they are hereby, consolidated and stand hereafter as one cause for hearing and disposition in this court.

It Is Further Ordered By the court that the said intervening petitions be, and hereby are dismissed for want of equity with costs to be taxed pro rata.

(Signed) Wm H. Seaman
Judge

278 April 30, 1904. Petition of Security Warehousing Company, W. B. McKeand The L. C. Hyde & Brittan Bank and Citizens Bank of Mukwonago by their attorney, praying an appeal, filed as follows:—

ppeal, 30.

United States of America
Eastern District of Wisconsin. } ss:

In the District Court of the United States

Eastern District of Wisconsin.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago,
Petitioners;
—*vs*—
Elbert B Hand, Andrew Dietrich, and E. McDill,
Respondents.

The above named petitioners, conceiving themselves to be aggrieved by the order and decree made and entered in the above entitled cause on the 23rd day of April, A D 1904, do jointly and severally hereby appeal from said order and decree of the 23rd day of April, 1904, to the United States Circuit Court of Appeals for the Seventh Circuit, for the reasons specified in the assignments of error filed herein; and they pray that their appeal may be allowed, and that a transcript of the record, testimony, stipulations, and all proceedings herein, together with the original exhibits M, N, I, K, L, O, and P, (being plats or diagrams lock and signs) filed herein, be forthwith transmitted to the said United States Circuit Court of Appeals for the Seventh Circuit.

Petition peal, 30, 19

Henry S. Robbins,
Attorney for Petitioners.

279 And same day (April 30, 1904), Assignments of Errors filed by said appellants, as follows:—

Assignm errors tioner April

United States of America
Eastern District of Wisconsin } ss:

IN THE DISTRICT COURT OF THE UNITED STATES.

In and for said District.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank, and Citizens Bank of Mukwonago,
Petitioners,
vs
Elbert B Hand, Andrew Dietrich, and E. McDill,
Respondents.

Now come Security Warehousing Company, W. B. McKeand, The L C Hyde & Brittan Bank, and Citizens' Bank of Mukwanago, petitioners herein, jointly and severally by Henry S. Robbins, their attorney, and file the following assignments of error to the decree of the District Court, and upon which they jointly and severally rely for grounds of reversal on appeal:

1. The Court erred in overruling petitioners' exceptions to the referee's report, and each of them.

t of
peti-
filed
, 1904.

2. The court erred in entering a decree herein, dismissing petitioners' petitions, and each of them.

3. The Court erred in entering a decree herein, dismissing petitioners' petitions and each of them, for want of equity.

4. The court erred in not entering a decree for each of
280 said petitioners, as prayed in their said petitions.

5. The court erred in not sustaining petitioners' first exception to the referee's report herein.

6. The court erred in not sustaing petitioners' second exception to the referee's report herein.

7. The court erred in not sustaining petitioners' third exception to the referee's report herein.

8. The court erred in not sustaining petitioners' fourth exception to the referee's report herein.

9. The court erred in not sustaining petitioners' fifth exception to the referee's report herein.

10. The court erred in not sustaining petitioners' sixth exception to the referee's report herein.

11. The court erred in approving and confirming the referee's report herein.

12. The court erred in not modifying the referee's report herein as indicated by petitioners' exceptions, and in not approving and confirming said report as thus modified.

13. The court erred in not entering a decree in favor of petitioners upon the referee's report herein.

14. The court erred in not entering a decree in favor of petitioners, and each of them, upon the referee's report herein.

15. The court erred in finding that the petitioner Security
Warehousing Company, was not on the 17th of November, 1903,
the date of the filing of its petition herein, and on the 5th.
281 day of October, 1903, the date of the filing of the petition in
bankruptcy herein, entitled to, and had possession of, the property mentioned in its petition.

16. The court erred in not adjudging and decreeing upon the referee's report herein, that the petitioner Security Warehousing Company, should receive the property covered by its certain receipts set out in the record herein, for the benefit, or as the custodian, of the other petitioners herein.

17. The court erred in not adjudging and decreeing upon the referee's report that the petitioner, W. B. McKeand, was entitled to a lien for the amount claimed upon the property mentioned in and covered by his certain receipts, set out in the record herein, and to receive thereon the property covered by said receipts so held by him.

18. The court erred in not adjudging and decreeing upon the referee's report that the petitioner, The L C Hyde & Brittan Bank of Beliot, was entitled to a lien for the amount claimed in its petition upon the property mentioned in and covered by its certain receipts, set out in the record herein, and to receive thereon the property covered by said receipts held by it.

Assignment errors of tioners, fi April 30,

19. The court erred in not adjudging and decreeing upon the referee's report that the petitioner, Citizens Bank of Mukwonago, was entitled to a lien for the amount claimed by it upon the property mentioned in and covered by its certain receipts set out in the record herein, and to receive therein the property covered by said receipts held by it.

Henry S. Robbins
Attorney for Petitioners.

282 And same day. Separate assignment of errors of the Security Warehousing Company filed as follows:

Assignment errors of curity W housing C filed Apri 1904.

United States of America
Eastern District of Wisconsin. } ss:

In the District Court of the United States

In and for said District.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago,
Petitioners,

—*vs*—

Elbert B Hand, Andrew Dietrich, and E. McDil,
Respondents.

Now comes Security Warehousing Company, one of the petitioners herein, by Henry S. Robbins, its attorney, and files the following assignments of error to the decree of the District Court, and upon which it relies for grounds of reversal on appeal.

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of Se-
Ware-
ng Co.,
April 30,

1. The court erred in overruling petitioner's exceptions to the referee's report, and in overruling each of them.

2. The court erred in entering a decree herein, dismissing petitioner's petition.

3. The court erred in entering a decree herein, dismissing petitioner's petition for want of equity.

4. The court erred in not entering a decree for petitioner as prayed in its petition.

5. The court erred in not sustaining petitioner's first exception to the referee's report herein.

283 6. The court erred in not sustaining petitioner's second exception to the referee's report herein.

7. The court erred in not sustaining petitioner's third exception to the referee's report herein.

8. The court erred in not sustaining petitioner's fourth exception to the referee's report herein.

9. The court erred in not sustaining petitioner's fifth exception to the referee's report herein.

10. The court erred in not sustaining petitioner's sixth exception to the referee's report herein.

11. The court erred in approving and confirming the referee's report herein.

12. The court erred in not modifying the referee's report herein as indicated by petitioner's exceptions, and in not approving and confirming said report as thus modified.

13. The court erred in not entering a decree in favor of petitioner upon the referee's report herein.

14. The court erred in finding that this petitioner was not on the 17th of November, 1903, the date of the filing of its petition herein, and on the 5th day of October, 1903, the date of the filing of the petition in bankruptcy herein, entitled to, and had possession of, the property mentioned in its petition.

15. The court erred in not adjudging and decreeing upon the referee's report herein, that this petitioner should receive the property covered by its certain receipts set out in the record herein, for the benefit, or as the custodian, of the other petitioners herein.

Henry S. Robbins,
Attorney for petitioner.

284 And same day. Separate assignment of errors of W. B. McKeand filed as follows:—

Assignment
errors of
McKeand,
April 30,

United States of America } ss:
Eastern District of Wisconsin. }

IN THE DISTRICT COURT OF THE UNITED STATES

In and for said District.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens Bank of Mulwonago,
Petitioners,

—*vs*—

Elbert B Hand, Andrew Dietrict, and E. McDill,
Respondents.

Now comes W. B. McKeand, one of the petitioners herein by Henry S Robbins, his attorney, and files the following assignments of error to the decree of the District Court, and upon which he relies for grounds of reversal on appeal:

1. The court erred in overruling petitioner's exceptions to the referee's report, and in overruling each of them.
2. The court erred in entering a decree herein, dismissing petitioner's petition.
3. The court erred in entering a decree herein, dismissing petitioner's petition for want of equity.
4. The court erred in not entering a decree for petitioner as prayed in his petition.
5. The court erred in not sustaining petitioner's first exception to the referee's report herein.
6. The court erred in not sustaining petitioner's second exception to the referee's report herein.

285 7. The court erred in not sustaining petitioner's third exception to the referee's report herein.

8. The court erred in not sustaining petitioner's fourth exception to the referee's report herein.
9. The court erred in not sustaining petitioner's fifth exception to the referee's report herein.

ent of
of W. B.
and, filed
30, 1904.

10. The court erred in not sustaining petitioner's sixth exception to the referee's report herein.

11. The court erred in approving and confirming the referee's report herein.

12. The court erred in not modifying the referee's report herein as indicated by petitioner's exceptions, and in not approving and confirming said report as thus modified.

13. The court erred in not entering a decree in favor of petitioner upon the referee's report herein.

14. The court erred in not adjudging and decreeing upon the referee's report that petitioner was entitled to a lien for the amoun claimed upon the property mentioned in and covered by his certain receipts, set out in the record herein, and to receive thereo the property covered by said receipts so held by him.

Henry S. Robbins,
Attorney for petitioner.

ent of L.
de & Brit-
ank, filed
30, 1904.

286 And same day. Separate assignment of errors of the L. C Hyde & Brittan Bank filed as follows:—

United States of America }
Eastern District of Wisconsin. } ss:

In the District Court of the United States

In and for said District.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago,
Petitioners.

—*vs*—

Elbert B Hand, Andrew Dietrich, and E. McDill,
Respondents.

Now comes The L C Hyde & Brittan Bank of Beloit, one of t petitioners herein, by Henry S Robbins, its attorney, and files t

Assignment
C. Hyde &
tan Bank,
April 30, 1

following assignments of error to the decree of the District Court, and upon which it relies for grounds of reversal on appeal.

1. The court erred in overruling petitioner's exceptions to the referee's report, and in overruling each of them.

2. The court erred in entering a decree herein, dismissing petitioner's petition.

3. The court erred in entering a decree herein, dismissing petitioner's petition for want of equity.

4. The court erred in not entering a decree for petitioner as prayed in its petition.

5. The court erred in not sustaining petitioner's first exception to the referee's report herein.

6. The court erred in not sustaining petitioner's second
287 exception to the referee's report herein.

7. The court erred in not sustaining petitioner's third exception to the referee's report herein.

8. The court erred in not sustaining petitioner's fourth exception to the referee's report herein.

9. The court erred in not sustaining petitioner's fifth exception to the referee's report herein.

10. The court erred in not sustaining petitioner's sixth exception to the referee's report herein.

11. The court erred in approving and confirming the referee's report herein.

12. The court erred in not modifying the referee's report herein as indicated by petitioner's exceptions, and in not approving and confirming said report as thus modified.

13. The court erred in not entering a decree in favor of petitioner upon the referee's report herein.

14. The court erred in not adjudging and decreeing upon the referee's report that petitioner was entitled to a lien for the amount claimed in its petition upon the property mentioned in and covered by its certain receipts, set out in the record herein, and to receive thereon the property covered by said receipts held by it.

Henry S. Robbins,
Attorney for petitioners.

288 And same day. Separate assignment of errors of the Citizens Bank of Mukwonago filed as follows:—

ment of
s of Citi-
Bank of
wonago,
April 30,

United States of America
Eastern District of Wisconsin. } ss:

IN THE DISTRICT COURT OF THE UNITED STATES

In and for said District.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago,
Petitioners,
vs
Elbert B Hand, Andrew Dietrich and E. McDill,
Respondents.

Now comes the Citizens Bank of Mukwonago, one of the peti tioner herein, by Henry S. Robbins, its attorney, and files the fol lowing assignments of error to the decree of the District Court and upon which it relies for grounds of reversal on appeal.

1. The court erred in overruling petitioner's exceptions to th referee's report, and in overruling each of them.

2. The Court erred in entering a decree herein, dismissing peti tioner's petition.

3. The court erred in entering a decree herein, dismissing pet tioner's petition for want of equity.

4. The court erred in not entering a decree for petitioner prayed in its petition.

5. The court erred in not sustaining petitioner's first exceptio to the referee's report herein.

6. The court erred in not sustaining petitioner's secon
289 exception to the referee's report herein.

7. The court erred in not sustaining petitioner's third excep tion to the referee's report herein.

8. The court erred in not sustaining petitioner's fourth excep tion to the referee's report herein.

9. The court erred in not sustaining petitioner's fifth excep tion to the referee's report herein.

Assignment
errors of
zens Ban
Mukwon

10. The court erred in not sustaining petitioner's sixth exception to the referee's report herein.

11. The court erred in approving and confirming the referee's report herein.

12. The court erred in not modifying the referee's report herein as indicated by petitioner's exceptions, and in not approving and confirming said report as thus modified.

13. The court erred in not entering a decree in favor of petitioner upon the referee's report herein.

14. The court erred in not adjudging and decreeing upon the referee's report that the petitioner was entitled to a lien for the amount claimed in its petition upon the property mentioned in and covered by its certain receipts, set out in the record herein, and to receive thereon the property covered by said receipts held by it.

Henry S. Robbins,
Attorney for petitioner

290

ORDER ALLOWING APPEAL.

Order of
1904, all
appeal.

United States of America } ss:
Eastern District of Wisconsin. }

In the District Court of the United States

In and for said District.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago,
Petitioners.
vs
Elbert B Hand, Andrew Dietrich, and E. McDill,
Respondents.

Now come The above named petitioners, by Henry S. Robbins, their attorney, and present to the court their petition for appeal herein, and assignments of error, and the same being duly filed, and the court being fully advised in the premises,

pril 30,
owing

It Is Ordered That an appeal to the United States Circuit Court of Appeals for the Seventh Circuit, from the order or decree entered herein on the 23rd day of April, 1904 be, and the same hereby is, allowed; that a certified transcript of the record, testimony, stipulations and all proceeding herein, together with the original exhibits, M, N, I, K, L, O, and P, (being plats or diagrams, lock and signs) filed herein, be forthwith transmitted to the said United States Circuit Court of Appeals.

It Is Further Ordered That the petitioners file their appeal bond, in the usual form, in the sum of $300.00.

(Signed) Wm. H. Seaman
Judge.

Dated April 30, 1904.

291 APPEAL BOND.

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il 30,

Know All Men by These Presents That we, Security Warehousing Company, a corporation, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens' Bank of Mukwonago, as Principals, and National Surety Company, of New York, as Surety, are held and firmly bound unto Elbert B Hand, Andrew Dietrich, and E. McDill, trustees of the estate of Racine Knitting Company, Bankrupt, in the full and just sum of Five hundred dollars, ($500.00), to be paid to the said Elbert B Hand, Andrew Dietrich, and E. McDill, trustees, their heirs, executors, administrators, successors, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors administrators, and successors, jointly and severally by these Presents.

Sealed with our Seals, and dated this 25th day of April, A. D. 1904.

Whereas, lately, at the January Term, A. D. 1904, of the District Court of the United States, for the Eastern District of Wisconsin, in a suit depending in said court between said Security Warehousing Company, W B McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens' Bank of Mukwonago, as petitioners, and Elbert B Hand, Andrew Dietrich and E. McDill, trustees of the estate of Racine Knitting Company, Bankrupt, as respondents, a certain decree was rendered against the said Security Warehousing Company, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens' Bank of Mukwonago, and the said Security Warehousing Company, W B McKeand, The L C Hyde & Brittan Bank,

Bond o
filed
1904.

and Citizens' Bank of Mukwonago have obtained an order of appeal of the said court to reverse the decree in the aforesaid suit, and a citation directed to the said Elbert B Hand, Andrew Die-
292 trich and E McDill, trustees of the estate of Racine Knitting Company, Bankrupt, citing and admonishing them to be and appear in the United States Circuit Court of Appeals for the Seventh Circuit, at the city of Chicago, Illinois, thirty (30) days from and after the date of said citation;

Now, The Condition of the Above Obligation Is Such, that if the said Security Warehousing Company, W. B. McKeand, The L C Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, shall prosecute said appeal with effect, and answer all damages and costs if they fail to make good their plea, then the above obligation to be void, else to remain in full force ond virtue.

SECURITY WAREHOUSING COMPANY,
By P. E. RASOR,
Its President.

Attest:
G. B. WING,
(Seal) *Secy.*

W. B. MCKEAND (Seal)

THE L. C. HYDE & BRITTAN BANK OF BELOIT,
By W. M. BRITTAN
Its President.
(Seal)
Attest:
E S GREEN
Cashier

CITIZENS BANK OF MUKWONAGO,
By J. N. CRAWFORD
Its President.
(Seal)
Attest:
PERRY B. CAMP,
Cashier.

NATIONAL SURETY COMPANY
By THOS F GOODRICH
V. President.
(Seal)
Attest:
DAVID C BEATTY
Res. Asst. Secretary.

Endorsed: Approved

WM. H. SEAMAN
Judge

293 PRAECIPE TO MAKE UP RECORD.

In the District Court of the United States

For the Eastern District of Wisconsin.

In re Racine Knitting Company, Bankrupt.

Security Warehousing Company, The L C Hyde & Brittan Bank of Beloit, W B McKeand, and Citizens' Bank of Mukwonago,
Petitioners;
—*vs*—
Elbert B Hand, Andrew Dietrich, and E McDill,
Respondents.

To the clerk of the above entitled court;

You will please prepare transcript of the record in the above entitled cause, to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Seventh Circuit, under the appeal heretofore allowed by this court, and include in the said transcript the following pleadings, proceedings, and papers on file, to-wit:

Petition filed October 5, 1903;
Consent of Racine Knitting Company, filed October 6, 1903;
Order appointing receivers, entered October 6, 1903;
Adjudication in bankruptcy, entered October 26, 1903;
Petition of Security Warehousing Company, filed November 17, 1903;
Petition of the L. C. Hyde & Brittan Bank of Beloit, filed November 17, 1903;
294 Petition of W. B. McKeand, filed November 17, 1903;
Rule on attorneys for receivers, entered November 17, 1903;
Answer of receivers to petition of Security Warehousing Company, filed November 23, 1903.
Answer of receivers to petition of The L C Hyde & Brittan Bank, filed November 23, 1903.

Answer of receivers to petition of W. B. McKeand, filed November 23, 1903; Praecip recor May

Order of reference entered February 5, 1904.

Testimony taken on reference, and exhibits, filed February 25, 1904;

Answer of Citizens Bank of Mukwonago, to petition for sale, filed Feby 6, 1904.

Report of Charles E Lee, referee, filed February 25, 1904.

Exceptions of petitioners to report of referee, filed February 26, 1904; and

Exceptions of trustees to report of referee, filed February 26, 1904.

Opinion filed March 30, 1904.

Order substituting trustees, entered April 16, 1904;

Decree entered April 23, 1904;

Petition for appeal, filed April 30, 1903;

Assignments of errors, filed April 30, 1904;

Order allowing appeal entered April 30, 1904;

Appeal bond filed April 30, 1904.

Said transcript to be prepared as required by law and the 295 rules of this court, and the rules of the United States Circuit Court of Appeals for the Seventh Circuit, and on file in the office of the clerk of said United States Circuit Court of Appeals at Chicago by the 30th day of May, A. D. 1904.

Henry S. Robbins,
Attorney for Petitioners.

Endorsed: Filed May 6, 1904

Edw Kurtz
Clerk

United States of America,
Eastern District of Wisconsin. } ss.

I, Edward Kurtz, Clerk of the District Court of the United States of America for the Eastern District of Wisconsin, do hereby certify that I have compared the foregoing with their Originals now on file and of record in my office, and that the same is a true and correct copy of the record including assignments of errors and all proceedings except exhibits which accompany the same with a separate certificate in the matter of the intervening petitions of the Security Warehousing Company et al, against the trustees of the Racine Knitting Company, bankrupt. Certific

In Testimony Whereof, I have hereunto set my hand, and duly affixed the seal of the said Court, at the city of Milwaukee, in said District, this 12th day of May in the year of our Lord, one thousand nine hundred and four and of the Independence of the United States, the 128th.

EDWARD KURTZ
Clerk.

(Seal)

296 United States } SS:
of America. }

To Elbert B. Hand, Andrew Dietrich and G. E. McDill, Trustees of the Racine Knitting Company, Bankrupt. Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Seventh Circuit, to be holden at Chicago Illinois, on the 28th day of May, A. D. 1904, pursuant to an appeal in the District Court of the United States for the Eastern District of Wisconsin, wherein Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit and Citizens Bank of Mukwonago are appellants and you are appellees, to show cause, if any there be, why the order or decree passed against the said Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit and Citizens Bank of Mukwonago, should not be reversed and speedy justice done to the parties in that behalf.

Witness the Honorable William H. Seaman, District Judge of the United States for the Eastern District of Wisconsin, at the City of Milwaukee, this 30th day of April, A. D. 1904, and of our Independence the 128th.

WM H SEAMAN
Judge.

We accept service of this citation this 4th day of May, A. D. 1904.

ELBERT B. HAND, ANDREW DIETRICH AND G. E. MCDILL,
Trustees &c
By COOPER, SIMMONS, NELSON & WALKER & JOHN B. SIMMONS
Attys & Solicitors

EXHIBITS

belonging to appeal record in case of The Security Warehousing Co et al, Appellants vs. Elbert B. Hand et al, trustees &c Appellees.

281 Form No. 2.

EXHIBIT A—C. H. LEE, REFEREE.

Security Warehousing Company Lease No..........

Exhibit
Lease
15, 1

This Agreement, Made this Fifteenth day of October in the year of our Lord one thousand nine hundred and one Between Racine Knitting Company, a corporation organized and existing under the laws of the State of Wisconsin, of the City of Racine, County of Racine, and State of Wisconsin party of the first part, and Security Warehousing Company, a corporation organized and existing under the Laws of the State of New York, party of the second part.

Witnesseth:—That the said party of the first part, for and in consideration of the covenants and agreements hereinafter mentioned and contained, to be kept and performed by the said party of the second part, its successors and assigns, hereby does demise, lease and let unto the said party of the second part the following described premises, situated in the City of Racine County of Racine and State of Wisconsin, to wit:

The entire first and second floors of Brick Building known as Chicago, Milwaukee & St. Paul Railway Company's premises, formerly occupied as a machine shop, on Lots five (5) and eight (8), Block six (6), Harbor Addition to City of Racine; said floors measuring forty feet (40′) from north to south by sixty feet (60′) from east to west.

for and during the term of one year from and after the date of this Agreement, (and so long thereafter as property remains thereon for which receipts of said Warehousing Company have been issued, and are in force and effect), and until duly released of record, for a yearly rental of One Dollar and other good and valuable considerations, the receipt of which in advance is hereby acknowledged by party of the first part.

This lease is made upon the express conditions following, to wit:

First. That the said leased premises shall be used and occupied exclusively for the storage of Personal Property, and for the transaction of such other business as may be connected therewith, or incident thereto, in pursuit of any rights claimed in performance of duties of said Warehousing Company as Warehousemen.

Second. That the said second party will not receive upon premises above described any property for purposes of storage, after due notice in writing has been received by said Warehousing Company, from said first party, that termination of this lease is desired.

Third. Said party of the second part, its agent or agents, shall, for the purpose of inspection or removal of any property which may be located in premises herein leased, be permitted easy and convenient passage at any and all times, through any part of the abutting premises that is or may hereafter be occupied or controlled by said party of the first part.

Fourth. Said party of the second part shall, for the convenient moving of property, to or from the above described premises, have free from cost of operation the use of elevators, tracks, cars, scales, scale house, and any other fixtures or appliances that party of first part now has or may acquire during term of this lease, and shall be privileged to place any marks, signs or other evidences of posession, which it may deem necessary or desirable.

Fifth. It is understood and agreed to by and between the parties hereto that the "moving of property" shall include the complete delivery of same on cars, wagons, or other means of transfer should party of the second part so elect.

In Witness Whereof, the parties to these presents have hereunto set their hands and seals the day and the year first above written.

Witness RACINE KNITTING CO.
(Signed) Per H. S. BLAKE,
V. Pres. & Mgr. (Seal)

Attest
(Signed) B. B. BLAKE,
Secy.

SECURITY WAREHOUSING COMPANY.
(Signed) By W. H. BANKS,
(Corporate Seal) *District Manager.* (Seal)

Note 1. In the case of a corporation, this agreement must be signed in the corporate name by the officer authorized so to do, and the seal of the corporation (if it has one) affixed and attested by the Secretary of the Company.

In the case of a co-partnership, each partner must sign his individually, or one partner may sign each name Per. Pro.

Note. 2. All signatures of this agreement must be acknowledged before a Notary Public or Commissioner of Deeds, or other court officer in conformity with the laws of the State wherein executed.

Exhibit
Lease
15, 1

State of——————
County of——————
} ss:

On the..........day of....................appeared ....
who executed the foregoing instrument, and acknowledged that.........
executed same (as officers of the first named corporation) for purposes therein mentioned.

....
Notary Public.

Racine, Wis., Oct. 15, 1902.

For the sum of One (1) Dollar, and other good and valuable considerations, the receipt of which is hereby acknowledged, this lease, and all privileges thereunder, is hereby extended and remains in full force and effect for, during and until July 1st, 1904, unless sooner cancelled by the terms specified in the second clause on the face hereof.

RACINE KNITTING CO.
(Signed) By WM. J. FREES,
Vice Pres.

Attest:
(Signed) R. H. BEEBE,
Sec'y.
(Corporate Seal) *Vice Pres.*

Endorsed: Filed February 26, 1904, Edw. Kurtz Clerk.

282 EXHIBIT B—C. H. LEE, REFEREE

Exhibit
Ware
receip

Copy of Security Warehousing Company Receipt,

(Same as on page 14 of this record.)

Endorsed: Filed February 26, 1904. Edw. Kurtz, Clerk.

Lease 1903. 283 Form No. 2.

EXHIBIT C.—C. H. LEE, REFEREE.

Security Warehousing Company Lease No............

This Agreement, Made this 24th day of January in the year of our Lord one thousand nine hundred and three Between Racine Knitting Company, a corporation organized and existing under the laws of the State of Wisconsin, of the City of Racine, County of Racine, and State of Wisconsin party of the first part, and Security Warehousing Company, a corporation organized and existing under the Laws of the State of New York, party of the second part.

Witnesseth:—That the said party of the first part, for and in consideration of the covenants and agreements hereinafter mentioned and contained, to be kept and performed by the said party of the second part, its successors and assigns, hereby does demise, lease and let unto the said party of the second part the following described premises, situated in the town of Stevens Point County of Portage and State of Wisconsin to wit:

A portion of the storage space of the one-story iron-clad warehouse, said warehouse being a part of the Knitting Plant located on the Northeast Corner of Park & Prairie Streets, same measuring about fifty (50) feet from North to South by thirty (30) feet from East to West, the section of said Warehouse hereby leased being a space partitioned from the floor space of the warehouse and located in the Southeast corner thereof, measuring thorty-two (32) feet from north to south by eleven (11) feet from East to west for and during the term of one year from and after the date of this Agreement, (and so long thereafter as property remains thereon for which receipts of said Warehousing Company have been issued, and are in force and effect), and until duly released of record, for a yearly rental of One Dollar and other good and valuable considerations, the receipt of which in advance is hereby acknowledged by party of the first part.

This lease is made upon the express conditions following, to wit:

First. That the said leased premises shall be used and occupied exclusively for the storage of Personal Property, and for the transaction of such other business as may be connected therewith, or incident thereto, in pursuit of any rights claimed in performance of duties of said Warehousing Company as Warehousemen.

Second. That the said second party will not receive upon prem-

Exhibit C of Jan.

ises above described any property for purposes of storage, after due notice in writing has been received by said Warehousing Company, from said first party, that termination of this lease is desired.

Third. Said party of the second part, its agent or agents, shall, for the purpose of inspection or removal of any property which may be located in premises herein leased, be permitted easy and convenient passage at any and all times, through any part of the abutting premises that is or may hereafter be occupied or controlled by said party of the first part.

Fourth. Said party of the second part shall, for the convenient moving of property, to or from the above described premises, have free from cost of operation the use of elevaters, tracks, cars, scales, scale house, and any other fixtures or appliances that party of first part now has or may acquire during term of this lease, and shall be privileged to place any marks, signs or other evidences of possession, which it may deem necessary or desirable.

Fifth. It is understood and agreed to by and between the parties hereto that the "moving of property" shall include the complete delivery of same on cars, wagons, or other means of transfer should party of the second part so elect.

In Witness Whereof, the parties to these presents have hereunto set their hands and seals the day and the year first above written.

RACINE KNITTING CO.,
(Signed) Per WM. J. FREES,
V. Pres. (Seal)

SECURITY WAREHOUSING COMPANY.
(Signed) By W. H. BANKS,
District Manager. (Seal)

[Seal] (Corporate Seal)

Witness
DAVID R. JOHNSON,

Attest
ROY H. BEEBE,
Sec.

(See Instructions on other side.)

Note 1. In the case of a corporation, this agreement must be signed in the corporate name by the officer authorized so to do, and the seal of the corporation (if it has one) affixed and attested by the Secretary of the Company.

In the case of a co-partnership, each partner must sign his name individually, or one partner may sign each name Per. Pro.

Note. 2. All signatures of this agreement must be acknowledged before a Notary Public or Commissioner of Deeds, or other court officer in conformity with the laws of the State wherein executed.

C—Lease 24, 1903.

State of Wisconsin, }
County of Racine. } ss:

On the 13th day of Feby. 1903, personally appeared Wm. J. Frees who executed the foregoing instrument and acknowledged that he executed same (as V. Prest. of the first named corporation) for purposes therein mentioned.

(Signed) A. **Fred Erickson**,
(Notarial Seal) *Notary Public, Racine Co.,* Wis.

My commission expires Jan. 16th, 1905.

Endorsed: Filed February 26, 1904. Edw. Kurtz, Clerk.

D—Agree- Oct. 15,

284 Form 3.

EXHIBIT D—C. H. LEE, REFEREE.

Security Warehousing Company.

Agreement.

This Agreement, made and entered into this 15 day of October 1901 between Racine Knitting Company, a corporation organized and existing under the laws of the state of Wisconsin, of the City of Racine, County of Racine and State of Wisconsin, party of the first part (hereinafter called the Owner), and the Security Warehousing Company (hereinafter called the Warehousing Company), a corporation organized and existing under the Laws of the State of New York, party of the second part, witnesseth:

Whereas, the party of the first part by a certain indenture of even date herewith has leased to the Security Warehousing Company, all its right, title and interest in and to certain premises theretofore possessed by it as lessee and more particularly described in said indenture of lease; and

Whereas, the party of the first part desires the Security Warehousing Company to receive in store and issue Storage Receipts for certain personal property belonging to the party of the first part, said property being unencumbered and free of all liens;

Now Therefore, in consideration of the covenants and agreements herein mentioned and contained, to be kept and performed by the party of the first part, and its assigns, the Warehousing Company, having taken possession of said premises, agrees to receive in store

Exhibit D
Agreem

and issue against such goods so received, Storage Receipts upon the following terms and conditions, namely:

1. The Warehousing Company takes and holds possession of said premises under the lease above mentioned so long as it shall have in its possession any property of the party of the first part stored on said premises, and for which Storage Receipts shall be outstanding.

2. The Owner warrants said premises to be suitable for the purposes for which it is intended they are to be used, and hereby undertakes at its own expense to keep said premises in good repair and in suitable condition at all times during the life of the lease for the purposes aforesaid, and also hereby undertakes to indemnify and at all times to keep indemnified the Warehousing Company, and hold and save it harmless from and against any and all losses, costs and ,expenses of whatsoever kind or nature, including attorney's fees, which the Warehousing Company may sustain, should said premises prove 'other than suitable, safe and proper, and to indemnify and hold harmless the Warehousing Company against the claim of any holder of Storage Receipts for property stored ther[illegible] on account of any loss, damage or destruction of the property stored, unless such loss, damage or destruction be held due to acts of dishonesty on the part of the Warehousing Company's agents, servants or employees; this indemnity to hold whether the Storage Receipts be in the hands of the original owner or any one else.

3. The Warehousing Company shall have a lien upon the property in store to cover its charges and expenses, including attorney's fees as previously mentioned, for property already delivered out of store by it, as well as upon the property that remains. Said charges continue until not only receipts are surrendered, but until the property is taken away or receipted for by a duly authorized party.

Any expenses for the receiving, delivery or inspecting of property under the superintendence of this Company is not rated as storage charges, but will form a basis for an additional charge.

4 In case the Owner fails to keep said premises in good repair as provided in Article II, the Warehousing Company is hereby authorized to forthwith repair the same, and the expense thereof shall be an additional charge against the property stored.

5. The party of the fist part reserves the right to terminate this agreement at any time upon surrendering to the Warehousing Company for cancellation, properly endorsed, all outstanding receipts issued against property therein stored, and paying all charges ac-

D—
ent.

crued thereon, but not until orders to deliver are issued, signed by the party authorized to receive the goods and delivered to the Warehousing Company.

6. The Warehousing Company may at any time it sees fit decline to receive any further goods in or upon said premises, or issue any further Storage Receipts therefor, without thereby cancelling the indenture of lease hereinbefore referred to.

7. Should the Owner at any time or in any manner break any of the terms or conditions of this contract; or, should the Owner become insolvent; or should the Owner in any manner interfere with, or make difficult, the duties of the Warehousing Company's agents, custodians, servants or employees; or remove or permit to be removed any signs, tags or other marks; or should the premises hereby let or leased become involved, in any manner, in litigation; or, should the Owner or the Warehousing Company be ejected or ousted from the possession of the premises, or should proceedings be bugun for that purpose; or should the Warehousing Company at any time, deem it necessary for the protection of its interests and the property stored, then the Warehousing Company shall have the right without notice to remove all property so stored from said premises to such other place or places as the Warehousing Company may deem proper or expedient, and adequately insure same. And in case of any such removal, the Owner undertakes and agrees to pay to the Warehousing Company all costs and expenses of such removal, together with the expenses and charges of storing and insuring said property elsewhere until the return and surrender of all outstanding Storage Receipts properly endorsed.

8. The party of the first part agrees to pay the Warehousing Company as compensation for its services in storing said property, and issuing its Storage Receipts as follows:

On property received and specified as having a market value of Twenty Thousand Dollars ($20,000) or less, the charges per month will be not less than Twenty-five ($25.00) Dollars. On all property stored in excess of Twentw-thousand Dollars (20,000) the charges will be One Dollar ($1.00) per month per thousand dollars ($1000) of value. All outlays incident to the business conducted under this Agreement, including fees for custodian, cost of bond, traveling expenses, surveying and checking, etc. will be
in addition to the rates and amounts above specified.
285 to be computed upon the market value of the property at the
time of issuing receipts, and for so long as Storage Receipts shall be outstanding; and in addition thereto, an amount equal to

Exhibit D Agreem

the salary paid by the Warehousing Company to its custodian in charge of said property and premises, not exceeding, however, $5.00 until further notice, per month; also the amount of annual premiums on the Custodian's surety bond.

9. Settlements between the parties hereto shall be made on demand in advance, and the amount due to the Warehousing Company shall be promptly paid by the party of the first part in cash so long as this contract shall continue in force.

In Witness Whereof we have hereunto set our hands and seals, this Fifteenth day of October, nineteen hundred and one.

RACINE KNITTING COMPANY,
By A. J. BLAKE,
Pres.

Two witnesses:

....

....

SECURITY WAREHOUSING COMPANY,
By W. H. BANKS,
District Manager

(Seal)
Attest:
B. B. BLAKE,
Secretary.

(Corporation
Seal)

Space For Acknowledgement

Note 1. In the case of a corporation, this agreement must be signed in the corporate name by the officer authorized so to do, attested by the Secretary, and the seal of the corporation (if it has one) affixed.

In the case of a co-partnership, each partner must sign his name individually, or one partner may sign each name Per. Pro.

Note 2. All signatures to this agreement must be acknowledged before a Notary Public or Commissioner of Deeds, or other court officer in conformity with the laws of the State wherein executed.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

1— $500.

286 EXHIBIT E—1—C. H. LEE, REFEREE

Racine, Wis., July 20, 1903.

$500.00

Four months after date we promise to pay to the order of Ourselves.. At The L. C. Hyde & Brittan Bank, Beloit, Wis.

Five Hundred..Dollars for value received, with interest at the rate of 7 per cent per annum, after maturity.

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as collateral security, for the payment of this and any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following property, value of which is $637.74.

Six Hundred Thirty Seven and 74/100 Dollars; viz.

Assorted underwear as per Exhibit A—228 and Warrant No. 3154 of the Security Warehousing Company/

Here follows the usual form of collateral note.

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

Endorsed: Racine Knitting Co. Per H. S. Blake, Treas. & Mgr.

2— r $1,400.

EXHIBIT E—2—C. H. LEE, REFEREE

Racine, Wis. Aug. 6, 1903.

$1,400.00

Four months after date we promise to pay to the order of Ourselves..At the L. C. Hyde & Brittan Bank, of Beloit, Wis.

Fourteen Hundred..Dollars for value received, with interest at the rate of seven per cent per annum, after maturity.

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

287 We have transferred and delivered to the holder of this note as collateral security, for the payment of this and any other liabilities, of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following property, value of which is $1675.13.

Sixteen Hundred Seventy--five and 13/100 Dollars viz.

Assorted Underwear as per Exhibit A—231 and Warrant No. 3237 of the Security Warehousing Company.

Here follows the usual form of collateral note

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas. & Mgr.

EXHIBIT E—3.—C. H. LEE, REFEREE.

Exhibit E
Note fo

Racine, Wis. Sept. 8, 1903.

$1900.00

Four months after date we promise to pay to the order of Ourselves...At the L. C. Hyde & Brittan Bank, Beloit, Wis.

Nineteen Hundred.......................................Dollars for value received, with interest at the rate of seven per cent per annum, after maturity.

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as collateral security, for the payment of this and of any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter or be contracted, the following property, value of which is $2,362.50.

Twenty three hundred and sixty-two and 50/100 Dollars viz

Assorted underwear as per Exhibit A—246 and Warrant No. 3327 of the Security Warehousing Company.

Here follows the usual form of collateral notes.

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas & Mgr.

4—
r $1,500.

288 EXHIBIT E—4—C. H. LEE, REFEREE

Racine, Wis. July 23, 1903.

$1500.00

Four months after date we promise to pay to the order of Our selves, ...At the L. C. Hyde & Brittan Bank, Beloit, Wis.

Fifteen Hundred............Dollars for value received, with interest at the rate of 7 per cent per annum, after maturity.

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as collateral security for the payment of this and any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following property, value of which is $1,949.66.

Xnieteen hundred forty nine and 66/100 Dollars, viz.

Assorted underwear as per Exhibit 408A—409A—410A and Warrants Nos. 3413-3414 and 3415 of the Security Warehousing Company.

Here follows the usual form of collateral note.

(Signed) Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas. & Mgr.

Endorsed: Filed February 26, 1904. Edw. Kurtz, Clerk.

EXHIBIT F.

Exhibit Note

C. H. Lee, Referee.

Racine, Wis. August 8th, 1903.

$2000.

Four months after date, we promise to pay to the order of Ourselves, at the First Nat'l Bank of Chicago, Illinois, Two Thousand ....Dollars, for value received, with interest at the rate of 7 per cent per annum, after maturity.

Racine Knitting Co.
Per H. S. Blake,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as collateral security, for the payment of this and of any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following property, value of which is $2431.68, viz: Assorted underwear as per Exhibits 416 A -- 417 A — 418 A — 419 A — 420 A and warrants Nos. 3421 — 3422 — 3423 — 3424 — 3425 of the Security Warehousing Company. And the undersigned hereby give the said payee and assigns authority to sell the said property, or any parts thereof, or any substitutes therefor, and all additions thereto, on the maturity of the above note, or at any time thereafter, or before, in the event of the said security depreciating in value, at any public or private sale without advertising same, or demanding payment or giving notice, with the right to said payee and assigns themselves to be the purchasers when sale is made at any brokers' board or public sale. And after deducting all costs and expenses, to apply the residue to the payment of any, either or all liabilities as aforesaid, as said payee or assigns shall elect, returning the overplus to the undersigned; and in case the proceeds of the sale of said property shall not cover the principal, interest and expenses, the undersigned engages to pay the deficiency forthwith after such sale, with legal interest.

Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas. & Mgr.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

$2,000.

EXHIBIT G-1

C. H. Lee, Referee.

Racine, Wis., June 23, 1903

$2000.00

Four months after date we promise to pay to the order of Ourselves ....at First Nat'l Bank of Chicago, Ill.

Two Thousand .... Dollars. for value received, with interest at the rate of 7 per cent per annum after maturity.

Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

290 We have transferred and delivered to the holder of this note as Collateral security for the payment of this and of any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following value of which is $2505.05

Twenty Five Hundred Five and 05/100 Dollars.

Assorted Ladies Vests as per Exhibit A-216 and warrant No. 3112 of the Security Warehousing Company.

And the undersigned hereby give the said payee and assigns authority to sell the said property, or any parts thereof, or any substitutes therefor, and all additions thereto, on the maturity of the above note, or any time thereafter, or before, in the event of the said security depreciating in value, at any public or private sale, without advertising same, or demanding payment or giving notice, with the right to said payee and assigns themselves to be the purchasers when sale is made at any brokers' board or public sale. And after deducting all costs and expenses, to apply the residue to the payment of any, either or all liabilities as aforesaid, as said payee or assigns shall elect, returning the overplus, to the undersigned; and in case the proceeds of the sale of said property shall not cover the principal, interest and expenses, the undersigned engages to pay the deficiency forthwith after such sale, with legal interest.

Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

(Seal)
W. B. McKeand & Co.,
No. 2612
Chicago Oct. 23/03.

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas. & Mgr.

EXHIBIT G-2

Exhibi
Not

C. H. Lee, Referee.

Racine, Wis. Aug. 10, 1903.

$1900.00

Four months after date we promise to pay to the order of Ourselves .... At the First Nat'l Bank of Chicago, Ill.

Nineteen Hundred .... Dollars for value received, with interest at the rate of 7 per cent per annum, after maturity.

Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as collateral security, for the payment of this and of any other liabilities of the undersigned to said payee or assigns, due or to become
due, or that may hereafter be contracted, the following prop-
291 erty, value of which is $2321.35 Twenty three hundred twenty
one and 35/100 Dollars, viz: Assorted Hosiery as per Exhibits A-233, A-234, A-235, A-236, A-237, A-238 and Warranty Nos. 3242—3243—3244—3245—3246—3247 of the Security Warehousing Company.

And the undersigned hereby give the said payee and assigns authority to sell the said property, or any parts thereof, or any substitutes therefor, and all additions theerto, on the maturity of the above note, or any time thereafter, or before, in the event of the said security depreciating in value, at any public or private sale, without advertising same, or demanding payment or giving notice, with the right to said payee and assigns themselves to be the purchasers, when sale is made at any brokers' board or public sale. And after deducting all costs and expenses, to apply the residue to the payment of any, either or all liabilities as aforesaid, as said payee or assigns shall elect, returning the overplus to the undersigned; and in case the proceeds of the sale of said property shall not cover the principal, interest and expenses, the undersigned engages to pay the deficiency forthwith after such sale, with legal interest.

Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

(Seal)
W. B. McKeand & Co.,
No. 2723
Chicago, Dec. 10/03

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas & Mgr.

$1,900.

EXHIBIT G-3

C. H. Lee, Referee.

Racine, Wis. Aug. 10, 1903.

$1900.00

Four months after date we promise to pay to the order of Ourselves .... at the First Nat'l Bank of Chicago, Ill.

Nineteen Hundred .... Dollars for value received, with interest at the rate of 7 per cent per annum, after maturity.

Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as collateral security for the payment of this and of any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following property, value of which is $2321.40 Twenty three hundred twenty one and 40/100 Dollars, viz:

Assorted Hosiery as per Exhibits A-254, A-255 and Warrants Nos. 3576—3577 of the Security Warehousing Company.

And the undersigned hereby give the said payee and assigns authority to sell the said property, or any parts thereof, or any substitutes therefor, and all additions thereto, on the maturity of the
above note, or any time thereafter, or before, in the event of
292 the said security depreciating in value, at any public or private
sale, without advertising same, or demanding payment or giving notice, with the right to said payee and assigns themselves to be the purchasers when sale is made at any brokers' board or public sale. And after deducting all costs and expenses, to apply the residue to the payment of any, either or all liabilities as aforesaid, as said payee or assigns shall elect, returning the overplus to the undersigned; and in case the proceeds of the sale of said property shall not cover the principal, interest and expenses, the undersigned engages to pay the deficiency forthwith after such sale, with legal interest.

Racine Knitting Co.,
Per H. S. Blake.
Treas. & Mgr.

(Seal)
W. B. McKeand & Co.,
No. 2722
Chicago. Dec. 10/03.

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas. & Mgr.

EXHIBIT G-4

Exhibi
Note

C. H. Lee, Referee.

Racine, Wis. Aug. 21, 1903.

$1000.00

Four months after date we promise to pay to the order of Ourselves .... at First Nat'l Bank of Chicago. Ill.

One Thousand .... Dollars. for value received, with interest at the rate of 7 per cent per annum, after maturity.

Racine Knitting Co.,
Per H. S. Blake,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as collateral security for the payment of this and of any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following property, value of which is $1339.94 Thirteen Hundred Thirty nine an 94/100 Dollars, viz:

Assorted underwear as per Exhibits B-421, B-422, B-423, B-424 and Warrants Nos. 3608-3609-3610-3611 of the Security Warehousing Co.

And the undersigned hereby give the said payee and assigns authority to sell the said property, or any parts thereof, or any substitutes therefor, and all additions thereto on the maturity of the above note, or any time thereafter, or before, in the event of the said security depreciating in value, at any public or private sale, without advertising same, or demanding payment or giving notice with the right to said payee and assigns themselves to be the purchasers, when sale is made at any brokers' board or public sale. And after deducting all costs and expenses, to apply the residue to the payment of any, either or all liabilities as aforesaid, as said payee or assigns shall elect, returning the overplus to the undersigned; and in case the proceeds of the sale of said property shall not cover the principal, interest and expenses, the undersigned engages to pay the deficiency forthwith after such sale, with legal interest.

293
(Seal)

Racine Knitting O.,
per H. S. Blake,
Treas. & Mgr.

W. B. McKeand & Co.,
No. 2753,
Chicago, Dec. 21/03.

Endorsed: Racine Knitting Co., Per H. S. Blake, Treas. & Mgr.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

Dec.

EXHIBIT H-C. H. LEE, REFEREE.

MANIFEST OF GOODS IN WAREHOUSE PREMISES OF SECURITY W. H. CO. #134.

Racine, Wis. Dec. 1st, 1902.

Exhibit "A-235".

Case No.	Doz. Prs.	No.	Description		Value.
4070	36	139	Mens Blue Hose at	$3.20......	$115.20
4073	80	36A	" Mixed " "	1.80......	144.00
4080	72	36A	" " " "	1.80......	129.60
4090	72	36	" " " "	1.80......	129.60
4	260				518.40

Racine, Wis. Dec. 1st, 1902.

Above manifest hereby certified correct and made a part of application of even date herewith.

Racine Knitting Co.
Per D. R. Johnson,
Cashier.

John W. Amend,
Custodian.
Racine Knitting Co.,
Racine, Wisc.

Warrant #3244 has this day been issued on property said to be contained in 4 cases above scheduled, all to be known as Lot #286.

Security Warehousing Co.,
W. H. Banks,
District Mngr.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

294 Form 4.

EXHIBIT J.

C. H. Lee, Referee.

AGREEMENT TO ACT AS CUSTODIAN.

This Agreement, entered into this 24th day of January 1903, by and between Miss Anna S. Eilers, of Stevens Point, State of Wisconsin, as first party, and Security Warehousing Company of New York, N. Y., as second party, Witnesseth:

1. Said first party hereby agrees to act as custodian for said second party at its storage premises No. 235 Located Stevens Point, Wisconsin, or any other premises hereafter acquired thereat by second party, also of all property which is now, or may hereafter be, in its possession in or upon said premises and to duly observe and follow all the instructions, requirements, and directions herein, and such others as are given him by second party, and perform and cause the performance of all things necessary to the safe care and keeping of said premises and property, so long as second party, its successors or assigns may desire, and immediately upon demand to surrender and deliver unto second party, its successors or assigns, all property, papers, locks, keys, and whatsoever things which may have been received from or may belong to, the second party, its successors or assigns.

Remuneration for services.

2. It is also agreed between the parties hereto, that if the first party shall duly perform all the duties of custodian under this agreement, the second party will pay the first party therefor the sum of Five & no/100 dollars per month.

Custodian not to be pecuniarily inested.

3. It is expressly understood and agreed between the parties hereto, that the first party is in no manner pecuniarily interested in any of the property now in or upon, or that may be placed in or upon, said premises, and that he will not, while acting as custodian, become interested in any property which may hereafter be in possession of the second party

at its Storage Premises No. Two Hundred and Thirty-five.

Inspection by Company not to relieve custodian.

4. It Is Also Expressly Understood and Agreed between the parties hereto, that any inspection, care, or attention which the second party, by its officers or agents, may, from time to time, give to said premises and property, shall not operate in any manner to release the first party from the duties and obligations under this agreement.

Custodian to give notice of desire to be released.

It is provided that should first party desire to be released from duties as custodian, the first party hereby agrees to give second party thirty days' written notice of such desire, and second party hereby agrees to release first party from this agreement within thirty days of receipt of such notice, provided all conditions in his bond and instructions herein and hereafter given have been fully complied with, and provided further that all premises and property together with all papers and other valuables or things belonging to, or received from, second party, shall have been surrendered by him to the Security Warehousing Company on demand. All of which shall be done and performed before the final payment for services as custodian shall become due ....

Witness:

....

....

Anna S. M. Eilers,

Custodian ....
Sign here

Security Warehousing Company.
By..............................

Endorsed: Filed February 26, 1904, Edw. Kurzt, Clerk.

Exhibit J—
ment to
Custodia

SECURITY WAREHOUSING COMPANY,
New York, N. Y.

Instructions to Custodians.

1. The following instructions referred to in your Bond and agreement hereon, must be carefully complied with in every particular. Should any part hereof not be fully understood, you are expected to ask for necessary information at once. Upon taking charge of storage premises you will at once inventory the property therein, and enter it in your Stock Register., specifying therein the (1) date, (2) amount, (3) kind, (4) marks, (5) location, and send to the agent in charge of your territory, a Receiving Notice containing same information as entered in Stock Register. You will be advised by said agent of the numbers of the Storage Receipts issued, which you will enter in Stock Register, opposite the property covered by same.

2. As custodian in charge of property held in store by this Warehousing Company, it will be your duty to see that it remains undisturbed, that all locks, seals, signs, marks, pile and lot numbers are maintained, that premises are kept in good condition, and that nothing takes place which would interfere with possession of said Warehousing Company.

3. Whenever keys may be held by or sent to you for purposes of receiving or removing property, they must remain in your individual possession, and except when entrances are actually required to be opened for the receipt or removal of property you are cautioned to keep same locked. Do not permit the keys or locks, while in your charge, to be placed even temporarily beyond your control.

4. Request for access to stock or premises controlled by this Warehousing Company, by persons unknown to you must not be complied with, unless, as a representative of this Company, he be provided with written evidence specifying relations sustained (presentation of card or similar matter will not be evidence of authority.) When any agent or inspector shall have made examination of property and premises, a report of same will be made by him and countersigned by you.

5. You are hereby charged not to issue or deliver any Receiving Notice under any circumstances until the property has been actually placed in the Warehouse.

6. Under no circumstances must you surrender any part of the

J—Agree- act as n.

property in your charge until you shall receive positive orders from the Warehousing Co. in writing, or by telegram.

In case you are requested to deliver property before a Delivery Order is received by you, you must decline to do so.

7. The method of releasing is as follows: Upon receipt by or presentation to you of Delivery Order signed by an officer of the Company, you will examine your Stock Record to see that it conforms thereto, and the same being satisfactory, you will deliver the property called for, personally checking and tallying same, and take receipt of the owner on the back thereof and remove all signs or tags of the Company thereon. You will then enter in the delivery column of Stock Register the date and amount delivered, enter date of delivery on bottom of Delivery Order, sign name and forward to agent sending same. Care must be used to satisfy yourself that the holder of the Delivery Order is the rightful possessor thereof.

8. The removal of signs, breaking of seals, and other methods of security should be done by no other person than yourself, as you are the only authorized agent of the Company in charge.

9. All general signs which affect the occupancy of the premises must be carefully maintained until advices are received that all receipts are cancelled.

10. In cases where all of the property released is not immediately removed, and is expected to remain undisturbed for an indefinite time, careful estimate of remainder should be made, including, surplus, and amount reported with that delivered.

Any property which may appear as an excess in delivery of any lot or lots must remain in possession of Warehouse Company until all property guaranteed by warrants has been surrendered, and you are advised by Warehouse Company that surplus, if any finally remains, may be turned over to parties entitled to receive same.

11. Any attempt to destroy or interfere with property or premises, accidental or otherwise, upon the part of any person must be reported at once to the Company by wire and confirmed by letter, and at the same time notify the nearest resident attorney of the Company and follow the instructions received promptly. Failure to report any such attempt or claim of any kind whatsoever will be considered a neglect of duty and violation of contract, and subject you to a demand for damages under bond, as the case may warrant.

12. Any person interfering with property under control of this Company will be liable for all damages and Costs. You are hereby instructed to notify all who appear under cover of legal writs or otherwise that you are the authorized representative of this Com-

Exhibit
ment
Custo

pany and that trespassers will be prosecuted. Should it become necessary to place anyone in charge during your temporary absence, in order to protect this Company's interest, do so in a person of a reliable man fit for the duty and advise agent. Should you be compelled at any time to absent yourself on account of sickness or other cause longer than one day, you will at once advise agent so that another custodian can be placed in charge, pending your absence.

13. You will send to agent report of all property in your charge when requested on printed forms, of which keep a supply, being careful to fill out all blanks and particularly to note the number and kinds of signs, and that they are unobscured in any manner.

Note also number of locks and seals.

Very truly,
Security Warehousing Company.

295 EXHIBIT K. Exhibit

C. H. Lee, Referee.

STORAGE PREMISES NO. 235
All Bins Indicated by Signs Placed at or near Manhole at Top or
Delivery Chute at Bottom are
LEASED AND OCCUPIED BY
SECURITY
WAREHOUSING COMPANY
OF NEW YORK (incorporated)
PUBLIC WAREHOUSEMEN.
WESTERN
OFFICES
CHICAGO.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

EXHIBIT L.

C. H. Lee, Referee.

WAREHOUSE CARD.

No disturbance permitted while this Card
is posted.

THIS PROPERTY IN POSSESSION OF
SECURITY
WAREHOUSING COMPANY.
(Incorporated.)

Date ....
Warrant No. ....Whole No. in Lot ....
Lot No. ....Weight ....
Pile No. ....Car No. ....
Sec. No. ....Marks ....
No. in Pile.

....
....
....
....

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

296

EXHIBIT "O"

C. H. Lee, Referee.

PREMISES NO. 134.
LEASED AND OCCUPIED BY
SECURITY WAREHOUSING CO.
NEW YORK.
(INCORPORATD.)

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

EXHIBIT "P"

is a Pad Lock.

(Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.)

297

EXHIBIT NO. 1.

C. H. Lee, Referee.

OFFICES
SECURITY WAREHOUSING COMPANY.
(of New York.)
PUBLIC WAREHOUSEMEN.
540 "The Rookery", 217 La Salle Street.
W. H. Banks, District Manager.

Chicago, October 29, 1901.

Racine Knitting Company,
Racine, Wisconsin.
Mr. D. R. Johnson, Cashier.

Dear Sir:

I have yours by special delivery, requesting that we send Mr. J. C. Banks to Racine on the nine o'clock train tomorrow morning. This we will be unable to do as he has a two or more days' engagement already arranged for. Mr. Wing, however, has kindly offered to make the inventory and will leave on the train you indicate, so your interests will be quite as well provided for as if our Mr. Banks had the matter in charge.

Yours truly,
(Signed) W. H. Banks,
District Manager.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

EXHIBIT #2

C. H. Lee, Referee.

Chicago, Aug. 31, 1903.

Racine Knitting Co.,
Racine, Wis.
Invoice No. 886

In Account with
SECURITY WAREHOUSING COMPANY.
General Office:
346 Broadway, New York.

W. H. Banks,
District Manager.

Offices:
540 The Rookery
217 La Salle St. Chicago.

Storage Chgs. Racine	Aug.	40.27	
" " St. Point	"	16.58	
			$56.85

55/182 Accounts for storage and charges are due and payable at Chicago Office before 10th proximo by check (on Chicago or New York) to order of W. H. Banks, District Manager.

298

EXHIBIT #2 (Continued)

Chicago, Jun. 30 1903.

Racine Knitting Co.,
Racine, Wis.
Invoice No. 703.

In Account with
SECURITY WAREHOUSING COMPANY.
43/180 General Office:
346 Broadway, New York.

W. H. Banks,
District Manager.

Offices
540 The Rookery,
217 La Salle St., Chicago.

	June		
Storage Chgs. Racine		46.50	
" " Stevens Pt.		16.58	
Custodian do	2nd Qr.	15.	
" Racine,	"	15.	
			93.08

(JUL 13 PAID)

Exhibit
Invoic

Accounts for storage and charges
are due and payable at Chicago
Office before 10th proximo by
check (on Chicago or New York)
to order of W. H. Banks, District Manager.

Chicago, May 30, 1903.

Racine Knitting Co.,
Racine, Wis.

Invoice No. 523.

In Account with
SECURITY WAREHOUSING COMPANY.

20/22/43

General Office:
346 Broadway, New York.
W. H. Banks, District
Manager.

Offices
540 The Rookery,
217 La Salle St.
Chicago.

Storage Chgs. May Racine,	48.54	
" " " Stevens Pt.	16.58	
		65.12
		(Paid 6/12/03)

Accounts for storage and charges are due and payable at Chicago Office before 10th proximo by check (on Chicago or New York) to order of W. H. Banks, District Manager.

Chicago, Apr. 30, 1903.

Racine Knitting Co.,
Racine, Wis.

Invoice No. 386

In Account With
SECURITY WAREHOUSING COMPANY.

43/178

General Office:
346 Broadway, New York.
W. H. Banks, District Manager

Offices:
540 The Rookery
217 La Salle St. Chicago.

Storage Chgs. April Racine	47.05
" " " St. Point	16.58
(Paid 5/15/03)	$63.63

Accounts for etc. (Same as on bill Aug. 31, 1903)

t 2—
ices.

299 EXHIBIT #2 (Continued)

Chicago Mar 31, 1903.

Racine Knitting Co.,
Racine Wis.

Invoice No. 2

In Account with

SECURITY WAREHOUSING COMPANY.

43/176

General Office:
346 Broadway, New York.

W. H. Banks,
District Manager.

Offices: 540 The Rookery
217 La Salle St.
Chicago

Storage Charges Racine	Mch		50.12	
" " St. Point	"		13.99	
Custodian Fees J. W. Amend	"	1st Qr.	15.	
" " A. M. Eilers, Feby. & Mch.			10.	
			———	89.11

Accounts &c. (same as on bill of Aug. 31, 1903)

(Settled Apr. 10, 1903

SECURITY WAREHOUSING Co.
(Signed) W. H. BANKS,
District Mngr.

———

Chicago, Feb. 28, 1903.

Racine Knitting Co.,
Racine, Wis.

Invoice No. 17

In Account with

SECURITY WAREHOUSING COMPANY.

43/175

General Office:
346 Broadway, New York.

W. H. Banks, District Manager

Offices:
540 The Rookery,
217 La Salle St., Chicago.

Storage Chgs. Racine,	49.18	
" " St. Point	13.99	
	———	$63.17

Accounts &c. (Same as on bill Aug. 31, .03)

Settled Mar 9, 1903

SECURITY WAREHOUSING Co.
(Signed) W. H. BANKS,
District Mngr.

Chicago, Jan. 31, 1903.

Racine Knitting Co.,
Racine, Wis.

Invoice No. 84

In Account with
SECURITY WAREHOUSING COMPANY.
General Offices:
346 Broadway, New York.

43/174

W. H. Banks, District Manager.

Amount cost of Bond $10,000 J. W. Amend Racine	30.	
Amount cost of Bond $5000. A. S. M. Eilers, Stevens Pt.	15.	
Traveling expenses for Inventory Stevens Pt.	19.92	
Storage Chgs. 1st. Mo. (do. Jany.	16.49	
" " Racine, Jany.	49.20	
		130.61

Accounts &c (same as on bill Aug. 31/03) Settled Feby. 11/03
W. H. Banks,
District Mngr.

300 EXHIBIT #2 (Continued)

Chicago, Dec. 31, 1902.

Racine Knitting Co.,
Racine, Wis.

File No. 119.

In Account with
SECURITY WAREHOUSING COMPANY.
General Office:
346 Broadway, New York.

43/

W. H. Banks,
District Manager.
Offices: Chicago
540 The Rookery
217 La Salle St.

Storage & Charges for Dec.	48.82
Custodian for 4th Quarter	15.
	63.82

Until further notice please make
Checks and Drafts to order of
W. H. Banks, District Manager.

Jan. 15, 1903 Settled

Security Warehousing Co.
(Signed) W. H. Banks,
District Mngr.

Chicago Nov. 30, 1902.

Racine Knitting Co.,
Racine, Wis.

In Account with
SECURITY WAREHOUSING COMPANY.

172/43
General Office:
346 Broadway, New York.
W. H. Banks, District Manager
Offices: Chicago
540 The Rookery
217 La Salle St.

Storage & Charges for Nov.	49.85
Until further notice &c.	Dec. 18, 1902, Settled

(Same as on bill of Dec. 31/02)

SECURITY WAREHOUSING CO.
W. H. BANKS,
District Mngr.

Chicago Oct. 31, 1902.

Racine Knitting Co.,
Racine, Wis.

In Account with
SECURITY WAREHOUSING COMPANY.

43/18
General Office:
346 Broadway, New York.
W. H. BANK, District Manager.
Offices: Chicago
540 The Rookery
217 La Salle St.

Storage & Charges for Oct.	50.95
Until further notice &c. (same as on Bill of Dec. 31/02)	Settled Nov. 13, 1902

SECURITY WAREHOUSING CO.
W. H. BANKS,
District Mngr.

301 EXHIBIT #2 (Continued)

F-hibi
Invo

Chicago Oct. 3 1902

Racine Knitting Co.
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY.
17/43 General Office:
346 Broadway, New York.

Storage Charges for Sept.	46.31	
Add for Chgs. on Receipts 2800, 2801, 2802 for May, June, July & August, previously charged,	8.36	54.67
Custodians fees for 3rd quarter		15.
		69.67

Until further notice &c.
(Same as on bill of Dec. 31/02) Oct 9 1902
Security Warehousing Co.
(Signed) W. H. Banks,
District Mngr.

Chicago, Aug. 30, 1902.

Racine Knitting Co.
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY.
43/17 General Warehousemen,
New York, N. Y.
W. H. Banks, District Manager,
Offices: 540 The Rookery,
217 La Salle St., Chicago.

Storage Charges for August 44.22

Sep. 20, 1902.
Settled.
Security Warehousing Co.,
(Signed) W. H. Banks,
District Mngr.

2—
ces.

Chicago, Jul 31, 1902

Racine Knitting Compy.
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY.
43/168 General Warehousemen,
New York, N. Y.
W. H. Banks, District Manager,
Offices: 540 The Rookery,
217 La Salle St., Chicago.

Storage charges for July	44.55

Aug. 25, 1902.
Settled.
Security Warehousing Co.,
(Signed) W. H. Banks,
District Mngr.

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302 EXHIBIT #2 (Continued)

Chicago, Jun. 30, 1902.

Racine Knitting Co.,
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY,
17/43 General Warehousemen,
New York, N. Y.
W. H. Banks, District Manager,
Offices: Chicago,
540 The Rookery;
217 La Salle St.

Storage & Charges for June	45.67
Custodian for 2nd Quarter	15.
	60.67

Jul 18, 1902.
Rec'd.
Security Warehousing Co.,
(Signed) W. H. Banks,
District Mngr.

Exhibit 2—Invoices.

Chicago, June 2, 1902

Racine Knitting Co.
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY,
17/43 General Warehousemen.
New York, N. Y.

Storage & Charges for May 48.68

Jun 10, 1902
Settled.
Security Warehousing Co.,
(Signed) Banks,
District Mngr.

Chicago, May 7, 1902.

Racine Knitting Compy,
Racine,
In Account with
SECURITY WAREHOUSING COMPANY,
General Warehousemen,
New York, N. Y.
W. H. Banks, District Manager,
Offices: Chicago,
540 The Rookery;
217 La Salle St.

Storage & Charges for April 53.68

May 13, 1902.
Settled
Security Warehousing Co.,
(Signed) W. H. Banks,
District Mngr.

303 EXHIBIT #2 (Continued)

Chicago Feby. 28, 1902

Racine Knitting Co.,
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY,
16 General Warehousemen,
New York, N. Y.
W. H. Banks, District Manager,
Offices: Chicago
540 The Rookery;
217 La Salle St.

Storage Charges for Feby.	54.55

Mar. 14, 1902.
Settled.
SECURITY WAREHOUSING Co.,
(Signed) W. H. BANKS,
District Mngr.

Chicago, Jany 31, 1902.

Racine Knitting Co.
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY,
General Warehousemen.
17 New York, N. Y.
W. H. Banks, District Manager,
Offices: Chicago,
540 The Rookery;
217 La Salle St.

Storage & Charges for Jany.	55.65

Feb. 14, 1902.
Settled.
SECURITY WAREHOUSING Co.,
(Signed) W. H. BANKS,
District Mngr.

Dec. 31, 1901

Exhibit
Invoi

Racine Knitting Co.
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY,
Corrected a/c General Warehousemen,
New York, N. Y.

Storage & Charges for Dec.	54.70
Custodian fees for 15 days Oct and Mos. Nov. & Dec.	12.50
	$67.20

Jan. 11, 1902.
Settled.
Security Warehousing Co.,
(Signed) W. H. Banks,
District Mngr.

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304 EXHIBIT #2 (Continued)

Chicago, Nov. 30, 1901

Racine Knitting Co.,
Racine, Wis.
In Account with
SECURITY WAREHOUSING COMPANY,
Corrected Bill General Warehousemen,
New York, N. Y.

Storage & Charges for October & November	$70.90
Amount of a/c C. T. S. D. & S. Co. for Bond J. W. Amend,	50.
	$120.90

Settled
Dec. 18, 1901.
Security Warehousing Co.,
(Signed) W. H. Banks,
District Mngr.

Chicago, Jul 31, 1903

Racine Knitting Co.
Racine, Wis.

Invoice No. 831

In Account with
SECURITY WAREHOUSING COMPANY,
General Office:
346 Broadway, New York.
55/181 W. H. Banks, District Manager,
Offices:
540 The Rookery;
217 La Salle St., Chicago.

Storage	Charges	Racine	41.69	
do	”	St. Point	16.58	58.27

Paid Aug. 8, No. 43.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

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305 EXHIBIT #3, C. H. LEE, REFEREE.

Jan.

Alex Greig, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousemen,
540 The Rookery, 217 La Salle St.,
W. H. Banks, District Manager

Chicago, January 9, 1903.

Racine Knitting Company,
Racine, Wisconsin.
Mr. H. S. Blake, Treasurer & Manager.

Dear Sir:—

I have yours of the 8th advising that Mr. Hayes at Stevens Point will be unable to manifest the stock designed to be stored, on or before Monday next, and also note what you say in your letter of the 7th with regard to the appointment of Miss Eilers to act as custodian. We have no objections to her so far as we know and it is indeed desirable to have the person act as custodian who is most familiar with the stock. We will therefore, in accordance with your request, defer any further arrangements until we hear from you. Kindly give us as much notice as possible of the day when you would like to have some one in Stevens Point.

W. H. Banks,
District Manager.

Exhibit 3—
Letter o
6, 1903.

W. H. Banks, Dist. Mgr. 1-6-03
Chicago, Ill.

Dear Sir:—

The writer is in receipt of your favor of the 5th inst. and note what you have to say in reference to the establishment of a warehouse and the issuing of warrants on the stock of goods at Stevens Point, Wis. In reply to same will say that we will have our Mr. John W. Amend, your custodian here, give the Stevens Point people as full instructions as possible, for the preparation of the warehouse, etc., preparatory to manifesting goods at that point. The writer will also give them instructions.

306 We would prefer to have Miss Anna S. Eilers, our cashier at Stevens Point factory, act as custodian, as she has full charge of our stock at that point, but we do not know as to whether or not your rules and regulations will permit of a woman acting in the capacity of custodian. We prefer to have her as she is at the mill all the time. On the other hand, if you cannot allow her to act, we would have to have our Mr. Chas. W. Hayes take the position. Miss Eilers would be there next Monday, the 12th inst., but Mr. Hayes will not be there at that time, and will not be in Stevens Point until Thursday, the 15th inst., so you can govern yourself in the matter of making out papers, and the time at which you send your representative to Stevens Point, by the above facts.

Kindly let me know what you will do in the matter.

Yours respectfully,

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

EXHIBIT #4, C. H. LEE, REFEREE.

Exhibit 4—
Letter o
1, 1903.

Alex Greig, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousemen,
540 The Rookery, 217 La Salle St.,
W. H. Banks, District Manager.

Chicago, Oct. 1, 1903.

Mr. Chas. L. Pugh, Manager,
Stevens Point, Wisconsin.

Dear Sir:—

Owing to a misunderstanding as to the point of meeting after I finished attention to the delivery of goods at the warehouse on the 27th, I failed to see you before I left. My understanding was that we were all to meet at the depot. When I arrived there and foun no one, I assumed that the party had gone up the river on the lanucl which was alluded to as one of the means of passing the time unt the train was due.

I desire to thank you very much for the interested attentio you gave to me, as well as to the gentlemen who were with m
307 and whose wants were so well attended to.

I do not know what may seem best to do, or what I may lat be advised or instructed to do regarding the remainder of the pro erty at Stevens Point. I wish, however, that you would ascertai at what cost room could be secured, of sufficient space to store t remaining property, in case it is thought best to remove it, which hope can be avoided; also state approximate cost for removal goods.

Yours truly,
(Signed) W. H. Banks,
District Manage

Oct. 3—1903

r of Oct.
W. H. Banks,
Chicago, Ill.

Dear Sir:—

In reply to your favor of the 14th would say that I have found storage room which might be had for $1.00 per month, possibly le Hauling and placing goods would probably cost about $3.00.

Yours very truly,
C. L. Pugh.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

r of Oct.
308 EXHIBIT #5, C. H. LEE, REFEREE.

Alex. Greig, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousemen,
540 The Rookery,
217 La Salle St.,
W. H. Banks, District Manager.

Chicago, October 5, 1903

Mr. Chas. M. Pugh, Mgr. Racine Knitting Co.,
Racine, Wisconsin.

Dear Sir:

I have your enclosure in which you say that you can rent an ind pendent storage room which, as I understand it, nobody else ca have access to—for about $1.00 per month. I wish you would

Exhibit
Letter
5, 190

so immediately and I think probably, under the circumstances, owing to the low price, and other possibilities, it would be best to lease it for one month with the privilege of three. I have written Miss Eilers regarding the locking up of the premises so that we shall have control of it.

Please proceed to move the property immediately upon receipt of this letter. Have the lease drawn to the "Security Warehousing Company", a New York corporation, having an office at Chicago and send me three copies, all duly signed. I will then sign one and return it to you, and retain the other two, keeping one to file in this office and sending the other copy to New York.

Yours truly,
(Signed) W. H. Banks,
District Manager.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

Exhibit
Minut
Sept.

309 EXHIBIT #6, C. H. LEE, REFEREE.

September 12th, 1903.

A meeting of the Directors of Racine Knitting Company was held, pursuant to call of the secretary and vice-president, at the office of the Company, at the City of Racine, at 10 o'clock A. M. Sept. 12th, 1903.

The following Resolution was presented:

"Resolved, That David R. Johnson, as Cashier, be and is hereby authorized to sign any and all applications for storage receipts, endorse said receipts for transfer and cancellation, and perform any and all acts necessary to transaction of business under a contract existing between the Racine Knitting Company and the Security Warehousing Company (of New York).

The above resolution is intended to, and hereby does cover all acts and business transacted by said David R. Johnson, Cashier, in behalf of this Company under said existing agreement."

Motion was made by R. H. Beebe, and seconded by David R. Johnson, that the said Resolution be adopted. Motion carried.

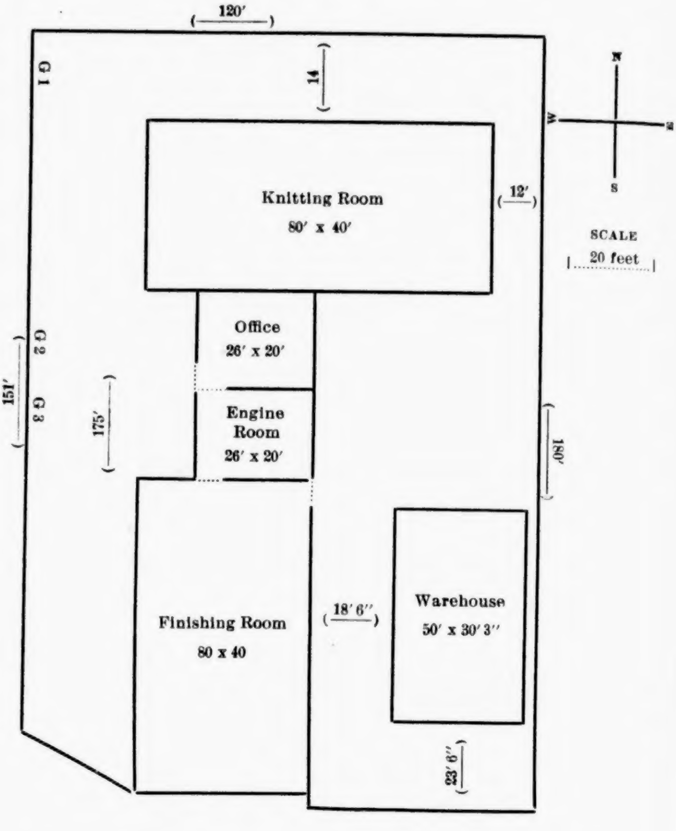
There being no further business to go before the meeting, on motion, the meeting was adjourned, subject to call of the president and secretary.

(Signed) Wm. J. Frees,
Vice-President.

Attest:
R. H. Beebe,
Secretary.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

7—Plan. 310 EXHIBIT #7 C. H. LEE, REFEREE.


120′
14
G 1
12′
Knitting Room
80′ x 40′
N
W
E
S
SCALE
20 feet
Office
26′ x 20′
Engine Room
26′ x 20′
151′
G 2
G 3
175′
180′
Finishing Room
80 x 40
18′ 6″
Warehouse
50′ x 30′ 3″
23′ 6″

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

311 EXHIBIT 8,—C. H. LEE, REFEREE.

Exhibit
Letter
6, 190

STORAGE PREMISES NO. 235.
LEASED AND OCCUPIED BY
SECURITY
WAREHOUSING COMPANY
Of New York (Incorporated)
PUBLIC WAREHOUSEMEN.
Western
Offices, CHICAGO.

Endorsed: Filed February 26, 1904. Edw. Kurtz, Clerk.

312 EXHIBIT 9, C. H. LEE, REFEREE.

Alex. Grieg, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousemen.
540 The Rookery
217 La Salle St.,
W. H. Banks, District Manager.

Chicago, October 6, 1903

Miss Anna S. M. Eilers, Custodian,
Stevens Point, Wisconsin.

Dear Madam:

Please send me a key to the lock on outside door of the warehouse, same as you have been in control of.

I presume nothing has been done towards moving the goods, as I have heard nothing by wire or telephone.

Yours truly,
(Signed) W. H. BANKS,
District Manager.

Oct. 7—1903

Exhibit
Letter
7, 190

W. H. Banks,
Dist. Mgr. Security Warehousing Co.
Chicago, Ill.

Dear Sir:—

Your favor of the 6th at hand. As I informed you in my letter of yesterday, the Company is in the hands of a Receiver and I am not at liberty to surrender key to outside door of warehouse. There are but two keys and these are in constant use. Am sorry I cannot comply with your request but no doubt you are able to appreciate the position in which I am placed.

Yours very truly,
ANNA S. M. EILERS,
Custodian

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

10—
Oct.

313 EXHIBIT 10, C. H. LEE, REFEREE.

Alex. Greig, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousemen,
540 The Rookery,
217 La Salle St.,
W. H. Banks, District Manager.

Chicago, October 7, 1903.

Miss Anna S. M. Eilers,
Stevens Point, Wisconsin.

Dear Madam:

I have yours of yesterday and note contents of your letter and would not of course, under any circumstances, expect you to make any move or commit any act which would in the least jeopardize your position, or be other than strictly correct in the eyes of the law.

I hope you will be able to send me a key, even if it disposes of the one which you carried while acting as our custodian. I will return it to you later if you have any need of it. I refer of course to the key to the outside lock, which it was understood at the beginning we should have duplicate of, but which was overlooked as many things are, for which necessity does not arise.

Yours truly,
(Signed) W. H. BANKS,
District Manager.

P. S. Kindly give me your house address so that communications can be addressed to you there instead of in care of Racine Knitting Company.

Oct. 9—1903

Exhibit 1
Letter
9 1903.

W. H. Banks,
Chicago, Ill.

Dear Sir:—

Your favor of the 7th received. I regret very much that I am unable to comply with your request but would refer you to the Receivers, Mr. E. B. Hand and Mr. Andrew Dietrich of Racine.

Mail addressed to 603 Strongs Ave. will reach me promptly.

Yours very truly,
ANNA EILERS.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

Exhibit 1
Invoice.

314 EXHIBIT #11, C. H. LEE, REFEREE.

RACINE KNITTING COMPANY,

H. S. Blake & Co.

Manufacturers of Seamless Hosiery
and Full Fashioned Underwear.
RACINE, WIS., Feb. 11, 1904.

W. B. McKeand & Co. a/c
Chicago, Ill.

Cr.

1903

Apr. 30	By	Disct & Brok	276.42
“	“	Sight Dft. Mc.K Co. 3/6	650.00
“	“	“ “ “ “	2000.00
“	“	“ “ “ 4/13	1406.20
“	“	“ “ “ 4/14	3800.00
“	“	Ck.Mck.& Co. Dep. C. S. B	2667.38
May 18	“	Paid Note” due 5/11/03	2500.00
“	“	Disct. & Brok	143.70
“	“	Dft. on McKCo. a/c B. B. & A. J. B	368.54
“	“	“ “ “	2131.46
“	“	Ck. Depostied C. S. Bk.	856.30
June 25	“	“ Paid Note Ratcliff due 6/25	2000.00
30	“	Sight Dft. on McK. Co. paid 5/26	2450.00
“	“	“ “ “ “ “ 6/3	2450.00
“	“	“ “ “ “ “ 6/8	2450.00
July 31	“	“ “ “ “ “ 7/29/03	2500.00
Aug. 6	“	Disct. & Brok	51.67
“	“	“ “	98.16
20	“	“ “	25.84

		By Paid Note due 9/1/03		2500.00
		" Disct. & Brok. per statement 7/10		168.51
June	17	" Cash H. S. B		1501.35
July	8,	" "		250.00
Aug.	31,	By Notes less Discts. as follows		
		+2369-Abe Block $1500-Disct	01.50	
		+2370 " " 1500 "	10.50	
		+2426 " " 1000 "	7.84	
		+ 7 " " 2000 "	15.68	
		+2371 Merc.Imp.Co.1985.11 "	13.89	
		+2577 Bradshaw China Co. 2133.57 Disct.	31.95	
		Exchange on Note +2577	$2.10	
				10026.22
		Total Credits,		43271.75
315		Dr.		
1903				
Jan.	1	To Balance		376.37
Apr.	30	" Note 3/23 4 mos		2500.00
"		" " " "		2500.00
"		" " 4/8/03 "		2000.00
"		" " 4/10/03 "		1900.00
"		" " 4/10/03 "		1900.00
May	18	" " 4/15/03 "		2500.00
"		" " 5/1/03 "		2500.00
"		" " 4/21/03 "		1000.00
June	25	" " 6/23/03 "		2000.00
Aug.	12	" Check		149.83
	15	" "		3800.00
	21	" "		25.84
Sep.	30	" " given 6/8/03		5000.00
				28152.04
	+617	" Note date 5/28/03 - 4 Mos.		2500.00
	629	" " " 6/10/03 "		5000.00
	630	" " " 6/15/03		5000.00
	631	" " " 6/20/03 "		2500.00
	633	" " " 6/25/03 "		5000.00
	652	" " " 8/5/03 "		2500.00
	654	" " " " "		5000.00
		Total Debits		55652.04
				43271.75
		Dr. Bal.		$12380.29

Endorsed : Filed February 26, 1904, Edw. Kurtz, Clerk.

316 EXHIBIT #12, C. H. LEE, REFEREE.

Exhibi
Rep
Stat

Racine Knitting Co. (Inc.) . . . . Racine, Wis., Racine County.
A. J. Blake, Pres.
Wm. J. Frees, V. Pres.
R. H. Beebe, Secy.
H. S. Blake, Treas. & Gen. Mgr.

DIRECTORS same, and Wm. J. McKeand, J. E. Woodhead, B. B. Blake, S. N. Pedrick and D. R. Johnson.

Cond-132-April 7-1903.

This corporation was originally organized in 1889 with a capital stock of $15,000, the business was conducted in a small way under the original charter until 1896 when the charter and business was purchased by H. S. Blake & Co. and was carried on by them for two years under the firm style of H. S. Blake & Co. but the charter of the Racine Knitting Co. was still retained by them. In October 1898 the corporation was re-organized, and the capital stock was increased to $50,000. In November 1900 the capital stock was again increased to $75,000, and in November 1901 was again increased to $250,000. In January 1903 it was again increased to $500,000, authorized capital of which $250,000 is now claimed to be fully paid in and since January 1903 they claim that about $12,000 worth of stock has been sold at par and that the balance of the increase is to be taken by mostly old stockholders, who are paying par for it and the shares are valued at $10 each.. This sale of stock is conducted by the officers of the Company without compensation. In 1897 a branch factory was established at Stevens Point, Wis. In 1902 another branch was placed in operation at Beloit, and in the fall of 1902 the plant of the Ripon Underwear Co. of Ripon, Wis. was purchased and is now operated by this Company. Stevens Point and Ripon plants manufacture underwear of all grades, Beloit factory is engaged in the manufacture of hosiery. At Racine the general warehouses of the company are located, together with the shipping and mail-order departments. Since 1897 the Co. has been working into the mail-order business, and at the present time, do practically no jobbing whatever. Their mail-order business has increased largely each year, and at the present time, the entire output of the three manufacturing plants is taken care of and disposed of in this way. The conduct of the business on this line requires the carrying of a large stock of manufactured goods in order to promptly fill orders, and also requires a large office force to conduct this business, but it is claimed by the officers that the increased expenses of conducting business in this way, is more than cared for in cutting off the middle men's profits. In Jan. 1902, the semi-annual dividend of three per cent was declared, and on July 10, 1902, another dividend of three per cent was declared, and January another three and a half per cent was declared. On March 2, 1903, Mr. Blake submitted the following statement showing the condition of the Company as submitted to the Board of Directors at their annual meeting Jan. 15, 1903.

Assets:

Racine real estate, Furn. & Fixtures........	$15417.12	
Ripon Factory, machinery and machine supplies	16458.75	
Stevens Point factory, Machy. & Machy. supplies, ...	48285.50	
Beloit Factory, Machy. & Machy. Supplies,	98755.00	
Mail Order and Agency Dept..............	58352.70	
Mnfg. materials & Supplies..........	24387.39	
317 Stock in process....................	13765.90	
Finished Stock	91363.32	
Accts. & Bills rec.	15255.32	
Cash on hand and in bank	8629.08	390670.00

Liabilities.

Capital stock	$250,000.
Bills Payable	87,840.41
Warehouse receipts discounted	30,650.00
Accts. Payable	7,231.93
Accrued Interest taxes and labor	1,797.38
General Surplus	13,150.37
	$390670.09

Mr. McKeand, one of the Directors, is a broker and private banker of Chicago. Mr. Woodhead is interested in the Lamb Knitting Machine Co of Chicago. Mr. Pedrick is an attorney at Ripon, Wis. and B. B. Blake is a capitaist at Racine. Johnson, Beebe and H. S. Blake have been connected with the Company for years as employees and are well regarded personally at home. The Co. is reported doing a large volume of business, and is believed under capable management. Is understood to discount its bills quite largely, and is believed making money quite rapidly, and it is thought would be worthy of its requirements on a basis of an estimated worth of $200,000 net.

79-4-7-1903 & C X I I-2 to C X 1

(Endorsed) Filed February 26, 1904, Edw. Kurtz, Clerk.

318 EXHIBIT #13, C. H. LEE, REFEREE.

Exhibit
Plan

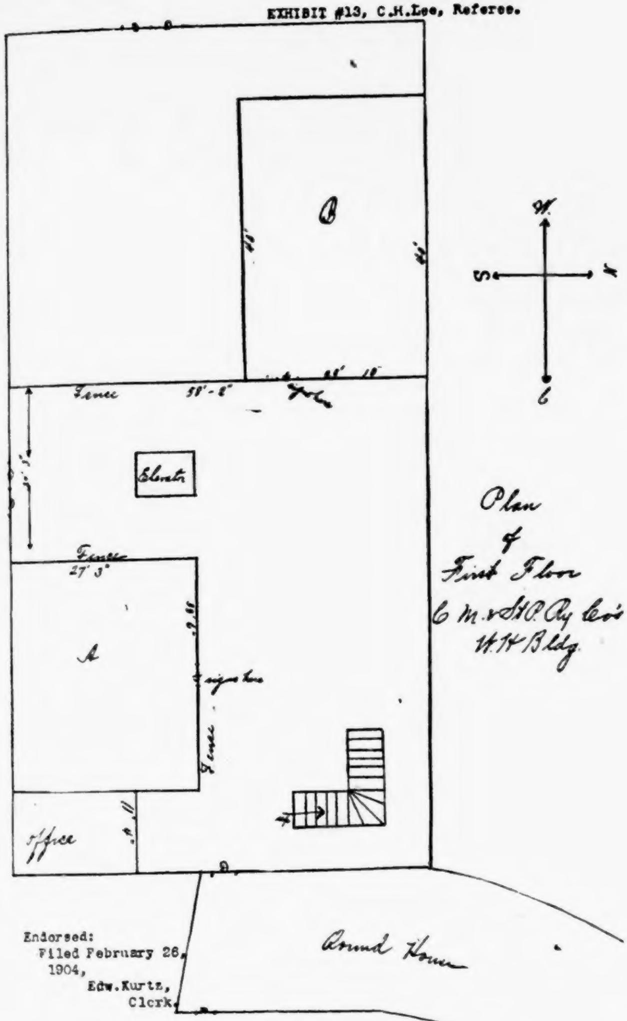


EXHIBIT #13, C.H.Lee, Referee.
B
W
S
N
E
Fence
58'-8"
Elevator
Fence
27' 3"
A
Fence
Office
Plan
of
First Floor
C M & St P Ry Co's
W H Bldg
Round House
Endorsed:
Filed February 26,
1904,
Edw.Kurtz,
Clerk.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

319 EXHIBIT #14, C. H. LEE, REFEREE.

RACINE KNITTING COMPANY.
H. S. Blake & Co.
Manufacturers of Seamless Hosiery,
and Full Fashioned Underwear.
RACINE, Wis. Feb. 2, 1904.

Security Warehousing Co.
Chicago, Ill.
(a/c's paid)

1901			
Dec. 18	Ck Oct. & Nov. charges		120.92
1902			
Jan. 10,	" Dec./01	"	67.20
Feb. 13,	" Jan. /02	"	55.65
Mar. 13,	" Feb. /02	"	64.55
Apr. 14,	" Mar. /02	"	69.55
May 15,	" Apr. /02	"	53.68
June 10	" May /02	"	48.68
July 17	" June /02	"	60.57
Aug. 23	" July /02	"	44.55
Sept. 20	" Aug. /02	"	44.22
Oct. 8	" Sept. /02	"	69.67
Nov. 13	" Oct. /02	"	50.95
Dec. 20	" Nov. /02	"	49.85
1903			
Jan. 14	" Dec. /02	"	63.82
Feby. 8	" Jan. /03	"	130.61
Mar. 7	" Feb. /03	"	63.17
Apr. 8	" Mar. /03	"	89.11
May 15	' Apr. /03	"	63.63
June 12	" May /03	"	65.12
July 13	" June /03	"	93.08
Aug. 8	" July /03	"	58.27
			1416.85
	Bill 8/31 for Aug. Chgs. unpaid		56.85
			1473.70

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

320 EXHIBIT #15, C. H. LEE, REFEREE.

Exhibit
Lette
24, 1

COOPER, SIMMONS, NELSON & WALKER.
Attorneys & Counselors at Law.
Racine, Wis. October 24, 1903.

Mr. James D. Woley,
Attorney First National Bank,
Chicago, Ill.

Dear Sir:—

Pursuant to the promise made you last Wednesday, that the receivers would let you know this week their conclusion in respect to the goods covered by the alleged warehouse receipts of the Security Warehousing Company, you are hereby advised that after reading the opinion of the United States Court of Appeals in the Rogers case, and comparing the facts in that case with those existing in the case of the Racine Knitting Co. the receivers do not feel justified in turning over these goods without the protection of an order of the Court. The facts of these cases are so closely parallel that it seems to us most probable the Court will hold your clients' warehouse receipts void as to creditors, the same as it did in the Rogers case, and holding this opinion, you could hardly expect the receivers to take the chances of surrendering up this property.

Much as we should like to oblige you personally, we think if you are still of the opinion that these receipts are good, you should take the proper steps to bring your claim to the attention of the Court.

Very Respectfully yours,
Cooper, Simmons, Nelson & Walker,
By John B. Simmons,

(Endorsed) Filed February 26, 1904, Edw. Kurtz, Clerk.

321 EXHIBIT #16, C. H. LEE, REFEREE.

Alex. Greig, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousemen.
540 The Rookery,
217 La Salle St.
W. H. Banks, District Manager.

Chicago, January 5, 1903.

Racine Knitting Company,
Racine, Wisconsin.
Mr. H. S. Blake, V. P.

Dear Sir:—Referring to the matter of inventory of stock at Stevens Point with a view to issuing receipts on same, beg to advise you that I requested Mr. Frees, who called upon us this morning, to see that Mr. Hayes, who I undersand is to act as custodian, be familiarized with all the features and details which relate to the preparation of papers and placing of stock at Stevens Point, and also get any suggestions which Mr. Amend can give him.

As I understand the matter, you have help at Stevens Point so that the Exhibits can be prepared in typewritten form, the same as is now done at Racine. I stated to Mr. Frees that I did not then believe that it would be possible for anyone to leave for Stevens Point before Sunday night, and since that time I am unable to plan any earlier date. On looking up the time tables, I find that the party will probably leave here on train due to arrive at Stevens Point at 9:55 A. M. and leave there on train quoted at 3:20 P. M. You will please give such instructions at Stevens Point as will prepare the premises for the retention of goods, which I understand in the meantime will have been placed in proper form and lotted so as to be inventoried from the sheets which will have been prepared. I see no reason why the matter should not be so advanced beforehand that everything can be properly closed while our representative is
there, and all arrangements made for application for bond and
322 appointment of custodian. Please advise me of the full name of
the custodian who will act for us.

Yours truly,
(Signed) W. H. Banks,
District Manager.

1-6-03.

Letter
1903

W. H. Banks, Dist. Mgr.
Chicago, Ill.

Dear Sir:—

The writer is in receipt of your favor of the 5th inst. and note what you have to say in reference to the establishment of a warehouse and the issuing of warrants on the stock of goods at Stevens Point, Wis. In reply to same will say that we have our Mr. John W. Amend, your custodian here, give the Stevens Point people as full instructions as possible, for the preparation of the warehouse, etc. preparatory to manifesting goods at that point. The writer will also give them instuctions.

We would prefer to have Miss Anna S. Eilers, our cashier at the Stevens Point factory, act as custodian, as she has full charge of our stock at that point, but we do not know as to whether or not your rules and regulations will permit of a woman acting in the capacity of custodian. We prefer to have her as she is at the mill all the time. On the other hand, if you cannot allow her to act, we would have to have our Mr. Chas. W. Hayes take the position. Miss Eilers would be there next Monday, the 12th inst. but Mr. Hayes will not be there at that time, and will not be in Stevens Point until Thursday, the 15th inst., so you can govern yourself in the matter of making out papers, and the time at which you send your representative to Stevens Point, by the above facts.

Kindly let me know what you will do in the matter.

Yours respectfully,

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323 EXHIBIT 17, C. H. LEE, REFEREE.

Exhibit
Lette
25, 19

Alex. Greig, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousing Co.
540 The Rookery.
217 La Salle St.
W. H. Banks, District Manager.

Chicago, Sept. 25, 1903.

Miss Anna S. M. Eilers, Custodian,
Stevens Point, Wis.

Dear Madam:

For a special reason, I write to instruct you that under no circumstances are you to allow any individual inside of warehouse premises enclosed in your main warehouse, for which you have lock and key. You are probably advised what occasions this letter. The chief thing which we desire to prevent is undue trouble which may grow out of any possible oversight in leaving the door unlocked for even five minutes. I think the best thing for you to do is to lock the outside door as well and keep the key yourself. Call Mr. Hayes' attention to this and have him understand the occasion for this letter, and if he needs any further authority consenting to the locking of the outside door, have him communicate with the Racine Knitting Co. at once by telegram. I shall be in Racine tomorrow myself and can answer any wire or details which this letter may occasion, or will give any further instructions which will be approved by the Racine Knitting Company.

Yours truly,
(Signed) W. H. Banks,
District Manager.

Endorsed: Rec'd Sep. 29, 1903.

Envelope annexed, postmarked Chicago, Ill. 7:30 P. M. Sept. 25, 1903, and addressed as follows:

Miss Anna S. M. Eilers,
℅Racine Knitting Co.,
Racine, Wisconsin.

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324 Oct. 2nd, 1903.

W. H. Banks,
Security Warehousing Co.,
Chicago, Ill.

Dear Sir:—

Enclosed herewith please find detailed report of goods left in storage Oct. 1st, '03.

Your letter of Sept. 25th, was addressed to Racine, Wis. and did not reach me until Tuesday P.M. of this week. I mention this that you may understand why you found the outside door of warehouse open and not think that I willfully neglected to carry out your instructions or even offer any explanation as to why the door was unlocked.

Yours very truly,

(Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.)

EXHIBIT #18.

Exhibit 1
Letter o
1, 1903.

C. H. Lee, Referee.

Alex. Greig, President.
SECURITY WAREHOUSING CO.
New York.
Public Warehousemen.
540 The Rookery,
217 La Salle St.,
W. H. Banks, District Manager.

Chicago, October 1, 1903.

Miss A. S. M. Eilers, Custodian,
Stevens Point, Wis.

Dear Madam:

I received your inquiry as to whether a report would be expected covering the remainder of the goods in store. The object of these reports is that comparison of the books of the District Manager and those of the custodian will at any time show the exact state of the property at the respective points where storage is to be had, and these reports and the books of the District Manager should always agree. This is the reason we ask you for a report each time any change is made.

I will thank you for a report as soon as convenient, and again extend to you my thanks for the attention you gave me when 325 we were in such haste to secure the property which the parties had demanded.

Yours truly,
(Signed) W. H. Banks,
District Manager.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

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f Oct.
ct. 5.

EXHIBIT #19.

C. H. Lee, Referee.

Alex. Greig, President.
SECURITY WAREHOUSING CO.

Chicago, October 3, 190

Miss Anna S. M. Eilers, Custodian,
Stevens Point, Wis.

Dear Madam:

Herewith we hand you nine delivery orders, Nos. 5771 to 57 inclusive, and 5777 to 5781 inclusive, releasing property cover by receipts Nos. 3406, 3407, 3408, 3409, 3618, 3619, 3620, 341 3411, 3412, 3416, 3417, 3418, 3419, 3420, known as Lots N 401, 402, 403, 404, 425, 426, 427, 405, 406, 407, 411, 412, 41 414 & 415, respectively.

Kindly sign these orders in the usual manner, and return them this office promptly, obliging

Yours truly,

E. C. Curtis,
for W. H. Banks,
District Manag

P. S. Do not have these orders signed on the back by the Raci Knitting Company, as we will secure receipt by parties to wh were delivered.

W. H. Banks, Oct. 5-1903.
District Manager, Security Warehousing Co.
Chicago, Ill.

Dear Sir:—

Enclosed please find nine Delivery Orders, signed, per your quest of the 3rd.

Yours very truly,
Anna S. M. Eilers.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

326 EXHIBIT 20,

Exhib
Lett
5 a

C. H. Lee, Referee.

Alex. Greig, President.
SECURITY WAREHOUSING CO.
New York.

Chicago, October 5, 1903.

Miss Anna S. M. Eilers, Custodian,
Stevens Point, Wisconsin.

Dear Madam:—

I beg to reply to yours of the 2nd, which refers to the failure on your part to receive our misdirected letter, that I have no complaint to make on account of the outside door of the warehouse being open, if it was. The old janitor who is around there was very careful, of course, and as I was there early in the morning, it really made no difference.

I have requested Mr. Pugh, in another letter, to engage an independent store room of sufficient capacity to contain the remaining cases left there. I think it will be best, in addition to the regular lock which is now in use on the premises he will now rent, to put our lock on and also a hasp, the same as the one which is now on our gate, and have it bolted on, which will of course require longer bolts than are now used. If the parties object to mutilating the door, we will have to secure something that will not mutilate the door any more than the ordinary store front door is usually bored, and if the special hasp and eye bolts can be brought, you can authorize them and I will reimburse you.

Yours truly,
(Signed) W. H. Banks,
District Manager.

---

327 Oct. 6-1903.

W. H. Banks,
Dist. Mgr. Security Warehousing Co.,
Chicago, Ill.

Dear Sir:—

Your letter of the 5th regarding the removal of the fourteen cases left in storage, is at hand.

I am informed by one of the Committee of Creditors that a Receiver had been appointed and that any attempt to remove any goods from the premises would be looked upon as contempt of Court and we are, therefore, unable to follow your instructions.

If you can give me any further advice in the matter, shall be pleased to hear from you.

Yours very truly,
ANNA S. M. EILERS,
Custodian.

Endorsed: Filed February 26, 1904, Edw. Kurtz, Clerk.

328 UNITED STATES OF AMERICA, } ss,
Eastern District of Wisconsin. }

I, Edward Kurtz, Clerk of the District Court of the United States of America for the Eastern District of Wisconsin, do hereby certify that I have compared the foregoing with their Originals now on file and of record in my office, and that the same are true and correct copies of the exhibits which accompany the record on appeal in the matter of the intervening petitions of the Security Warehousing Company *et al* against the Trustees of the Racine Knitting Company, bankrupt, except exhibits "I," "M," "N," and "P" the originals of which are sent herewith, and that original exhibits "K," "L" and "O" are also sent herewith pursuant to the order of said Court.

In testimony whereof, I have hereunto set my hand, and duly affixed the seal of the said Court, at the city of Milwaukee, in said District, this 12th day of May in the year of our Lord, one thousand nine hundred and four and of the Independence of the United States, the 128th.

[SEAL.] EDWARD KURTZ, *Clerk.*

United States Circuit Court of Appeals for the Seventh Circuit.

I, Edward M. Holloway, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages, numbered from 1 to 260, inclusive, contain a true copy of the printed record filed in this court on July 9, 1904, which was prepared for the printer, indexed, supervised and distributed by me in accordance with the rules of this court and upon which the cause was determined by the United States Circuit Court of Appeals for the Seventh Circuit, in the case of In the Matter of Racine Knitting Company, Bankrupt, Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit and Citizens Bank of Mukwonago *vs.* Elbert B. Hand, Andrew Dietrich and G. E. McDill, Trustees of Racine Knitting Company, Bankrupt No. 1090, October Term, 1904, as the same remains upon the files and records of the United States Circuit Court of Appeals, for the Seventh Circuit.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this first day of March, A. D. 1906.

[Seal United States Circuit Court of Appeals, Seventh Circuit.]

EDWARD M. HOLLOWAY,
Clerk of the United States Circuit Court of
Appeals for the Seventh Circuit.

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held at the United States Court rooms in the City of Chicago in said Seventh Circuit on the sixth day of October, 1903, of the October term in the year of our Lord one thousand nine hundred and three and of our Independence the one hundred and twenty-eighth.

And afterwards, to-wit: On the thirty-first day of May, 1904, in the October term last aforesaid, came the appellants, by their counsel Mr. Henry S. Robbins, and filed in the office of the clerk of this court his appearance, which appearance is in the words and figures following, to-wit:

No. 1090, October Term, 1903.

SECURITY WAREHOUSING COMPANY ET AL., Appellants,
vs.
ELBERT B. HAND ET AL.

The Clerk will enter my appearance as counsel for the Appellants.
HENRY S. ROBBINS.

Endorsed: Filed May 31, 1904. Edward M. Holloway, Clerk.

And afterwards, to-wit: On the third day of June, 1904, in the October term last aforesaid came the appellees by their counsel, Mr. John B. Simmons, and filed in the office of the clerk of this court his appearance, which appareance is in the words and figures following, to-wit:

No. 1090, October Term, 1903.

In the Matter of RACINE KNITTING MACHINE COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY ET AL., Appellants,
vs.
ELBERT B. HAND ET AL.

The Clerk will enter my appearance as Counsel for the Appellees.
JOHN B. SIMMONS.

Endorsed: Filed June 3, 1904. Edward M. Holloway, Clerk.

And afterwards, to-wit: On the twenty-seventh day of July, 1904, in the October term last aforesaid, there was filed in the office of the clerk of this court a stipulation of counsel in the words and figures following, to-wit:

In the United States Circuit Court of Appeals for the Seventh Circuit.

No. 1090.

In the Matter of RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY ET AL., Appellants,
vs.
ELBERT B. HAND ET AL., Appellees.

It is hereby stipulated and agreed by and between the parties to the above entitled cause, by their respective counsel, that the time appellants have in which to file their brief herein be, and the same hereby is, extended to the 15th day of September, 1904.

HENRY S. ROBBINS,
Counsel for Appellants.
JOHN B. SIMMONS,
Counsel for Appellees.

Endorsed: Filed Jul. 27, 1904. Edward M. Holloway, Clerk.

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held at the United States court rooms in the City of Chicago in said Seventh Circuit on the fourth day of October, 1904, of the October term in the year of our Lord one thousand nine hundred and four and of our Independence the one hundred and twenty-ninth.

And afterwards, to-wit: On the fourth day of October, 1904, in the October term last aforesaid, the following further proceedings were had and entered of record, to-wit:

TUESDAY, *October* 4, 1904.

Present: Hon. James G. Jenkins, Circuit Judge presiding; Hon. Peter S. Grosscup, Circuit Judge; Hon. Francis E. Baker, Circuit Judge.

1090.

In the Matter of RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY ET AL.
vs.
ELBERT B. HAND ET AL.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

It is ordered by the court that this cause be, and the same is hereby set down for hearing October 26, 1904.

And afterwards, to-wit: On the twenty-sixth day of Ocotber, 1904, in the October term last aforesaid, there was filed in the office of the clerk of this court an exhibit in the words and figure following, to-wit:

EXHIBIT "A."

$2000.00. RACINE, WIS., *Aug.* 8, 1903.

Four months after date We promise to pay to the order of Ourselves at the First Nat'l Bank of Chicago, Ill. Two Thousand Dollars for value Received, with interest at the rate of 7 per cent. per annum, after maturity.

RACINE KNITTING CO.,
Per H. S. BLAKE,
Treas. & Mgr.

We have transferred and delivered to the holder of this note as Collateral security, for the payment of this and of any other liabilities of the undersigned to said payee or assigns, due or to become due, or that may hereafter be contracted, the following property, value of which is $2431.68.

Twenty four hundred thirty one and 68/100 Dollars, viz: Assorted Underwear as per Exhibits 416 A- 417 A- 418 A- 419 A- 420 A and Warrants Nos. 3421, 3422, 3423, 3424, 3425 of the Security Warehousing Company.

And the undersigned hereby give the said payee and assigns authority to sell the said property, or any parts thereof, or any substitutes therefor, and all additions thereto, on the maturity of the above note, or any time thereafter, or before, in the event of the said security depreciating in value, at any public or private sale, without advertising same, or demanding payment or giving notice, with the right to said payee and assigns themselves to be the purchasers, when sale is made at any brokers' board or public sale. And after deducting all costs and expenses, to apply the residue to the payment of any, either or all liabilities as aforesaid, as said payee or assigns shall elect, returning the overplus to the undersigned, and in case the proceeds of the sale of said property shall not cover the principal, interest and expenses, the undersigned engages to pay the deficiency forthwith after such sale, with legal interest.

RACINE KNITTING CO.,
Per H. S. BLAKE,
Treas. & Mgr.

(Endorsement on back of note:) Racine Knitting Co., Per H. S. Blake, Treas. & Mgr.

In the District Court of the United States, Eastern District of Wisconsin.

In the Matter of RACINE KNITTING Co., Bankrupt. In Bankruptcy.

UNITED STATES OF AMERICA,
State of Wisconsin, Eastern District of Wisconsin, ss:

At Waukesha, in said district of Wisconsin, on the 12th day of April, A. D., 1904, came Perry P. Camp, of Mukwonago, in the county of Waukesha, in said district of Wisconsin and made oath, and says that he is Cashier of the Citizens Bank of Mukwonago, Wis. a corporation organized and existing under and by virtue of the laws of the State of Wisconsin doing business as such at the City of Mukwonago, in the County of Waukesha, State of Wisconsin.

That the Racine Knitting Company, the person against whom the petition for adjudication of bankruptcy has been filed, at and before the filing of said petition was and still is justly and truly indebted unto the said Citizens Bank of Mukwonago in the sum of two thousand ($2000.00) Dollars.

That the original consideration of said indebtedness was money loaned by the said Citizens Bank of Muk. to the said Racine Knitting Company, the said bankrupt herein at its special instance and request upon account, on 8th day of August, 1903.

That all of said indebtedness is evidenced by notes, the originals of which are herewith produced to be marked by the referee, for the purposes of identification. Exhibit "A" respectively. Deponent further says that no part of said debt has been paid (except) — that there are no offsets or counter claims to the same (except) — That this deponent or any person on its behalf, or to this deponent's knowledge or belief, for its use has had or received no manner of satisfaction or security whatsoever from the bankrupt herein, and that no note has been received for said debt and no judgment recovered thereon exectp as herein mentioned.

Deponent further says that he makes this proof on behalf and by authority of claimant. That the residence and post office address of said claimant is City of Mukwonago, County of Waukesha, State of Wisconsin.

PERRY P. CAMP,
Cashier of the Citizens Bank of Mukwonago.

Subscribed and sworn to before me this 12th day of April, 1904.

C. W. NEWBURY,
Notary Public, Waukesha County,
State of Wisconsin.

Filed Apr. 12-'04-10 A. M.
C. H. LEE, *Referee.*

EASTERN DISTRICT OF WISCONSIN,
City and County of Racine, ss:

I, Charles H. Lee, Referee in Bankruptcy having charge of the matter of the Racine Knitting Company, Bankrupt, and the files therein, do hereby certify that I have carefully compared the foregoing with the original Proof # 186 of Debt filed by the Citizens Bank of Mukwonago, and that the above and foregoing is a full, complete and perfect transcript of the original and the whole thereof.

Given and certified under my hand at Racine this 22nd day of October, A. D., 1904.

CHARLES H. LEE,
Referee in Bankruptcy.

Endorsed: Filed Oct. 26, 1904. Edward M. Holloway, Clerk.

And afterwards, on the same day, to-wit: On the twenty-sixth day of October, 1904, in the October term last aforesaid, there was filed in the office of the clerk of this court a settlement with W. B. McKeand, in the words and figures following, to-wit:

In the District Court of the United States for the Eastern District of Wisconsin.

In the Matter of the RACINE KNITTING COMPANY, a Corporation, Bankrupt. In Bankruptcy.

Whereas, W. B. McKeand heretofore filed three certain claims against the estate of said bankrupt, numbered respectively by the referee 157, 158 and 159, each of which was objected to by the trustees, and which claims, together with all the interest of said McKeand in certain so called "manifest goods" and the proceeds thereof, claimed to be held as collateral to the notes embraced in said claim No. 157, have been duly assigned to George Mayer, of Chicago, Illinois; and

Whereas certain controversies now exist between said George Mayer and the Trustees of said bankrupt, respecting the validity and amount of said claims and the validity of the so called warehouse receipts covering said "manifest goods;"

Now, for the purpose of effecting a settlement and compromise of all said matters in difference, It is hereby agreed between said Trustees and said George Mayer and W. B. McKeand, subject to the approval of the Court or referee, as follows:

1. Said claim No. 157 shall be allowed at the sum of $6740.17; and the proceeds of the said collateral, being the sum of $1705.00, now deposited in the registry of the Court, shall thereupon, by order of the referee, be released and paid over to the trustees, and the said George Mayer and said W. B. McKeand hereby waive and release all claim upon said proceeds and all claims and demands against said Trustees growing out of the retention and sale of said goods.

2. Said claim No. 159 shall be allowed at the sum of $2505.78.

3. Said claim No. 158 shall be reduced and allowed at the sum of $9990.14, and the balance thereof, being the sum of $10,009.86, shall be disallowed.

This stipulation shall be filed with the referee, and the attorneys for either party may thereupon, without further notice, move the confirmation of this settlement, and if the same be approved, an order may be entered to that effect and said claims allowed or reduced, as herein provided, and the referee shall thereupon enter an order for the release of said sum of $1705.00 now in the registry of the Court, and its payment over to the Trustees.

Dated, Racine, Wis., July 1st, A. D. 1904.

GEORGE MAYER, [SEAL.]
W. B. McKEAND, [SEAL.]
E. B. HAND, [SEAL.]
ANDREW DIETRICH, [SEAL.]
By E. McDILL,
Trustees Racine Knitting Co.

Filed July 9, 1904—9 A. M.

In the District Court of the United States for the Eastern District of Wisconsin.

In the Matter of the RACINE KNITTING COMPANY, a Corporation, Bankrupt. In Bankruptcy.

Whereas, W. B. McKeand heretofore filed three certain claims against the estate of said bankrupt, numbered respectively 157, 158 and 159, each of which was objected to by the trustees and which claims, together with all the interest of said W. B. McKeand in certain manifest goods and the proceeds thereof claimed to be held as collateral to the notes embraced in said claim Number 157, have been duly assigned to George Mayer of Chicago, Illinois, and

Whereas, certain controversies have arisen and now exist between said George Mayer and the trustees of said bankrupt respecting the validity and amount of said claims and the validity of the so-called warehouse receipts covering said manifest goods; and

Whereas, said George Mayer, W. B. McKeand and the trustees in bankruptcy of said estate have compromised said controversies and have filed their stipulation of compromise and settlement herein; Now therefore,

On reading and filing said stipulation of compromise and settlement and it appearing that said compromise and settlement are for the best interests of said estate; whereupon it is ordered:

That said compromise and settlement be and the same hereby are in all things ratified, confirmed and approved;

That said claim Number 157 be and the same hereby is allowed at the sum of Six Thousand Seven Hundred Forty Dollars and Seventeen Cents ($6740.17); that the proceeds of the collaterals to said claim, being the sum of One Thousand Seven Hundred and Five Dollars ($1705.) now deposited in the Registry of the court, be and the same hereby are released and said trustees be and they hereby are authorized and empowered to collect and receive said proceeds for the purposes of their trust.

That said claim Number 159 be and the same hereby is allowed at the sum of Two Thousand Five Hundred Five Dollars and Seventy-eight cents ($2505.78);

That said claim Number 158 be and the same hereby is allowed at the sum of Nine Thousand Nine Hundred Ninety Dollars and Fourteen Cents ($9990.14).

And it is further ordered that said trustees do pay or cause to be paid to George Mayer, the assignee of said claims, or to his attorneys a dividend of ten per cent. upon the amounts thereof hereby allowed and that said claims in the amounts hereby allowed share ratably with the other claims allowed against said estate in the proceeds of said estate applicable or which hereafter may be applied for distribution among the creditors thereof.

Dated July 9th, A. D., 1904.

By the Court,

CHARLES H. LEE, *Referee.*

Filed July 9th, '04—9 A. M.

C. H. LEE, *Ref.*

EASTERN DISTRICT OF WISCONSIN,
City and County of Racine, ss:

I, Charles H. Lee, Referee in Bankruptcy having charge of the matter of the Racine Knitting Company, Bankrupt, and the files therein, do hereby certify that I have carefully compared the foregoing with the original Agreement of compromise and order confirming same upon the claims of W. B. McKeand, and that the above and foregoing is a full, complete and perfect transcript of the original and the whole thereof.

Given and certified under my hand at Racine this 22nd day of October, A. D., 1904.

CHARLES H. LEE,
Referee in Bankruptcy.

Endorsed: Filed Oct. 26, 1904. Edward M. Holloway, Clerk.

And afterwards, to-wit: On the same day, to-wit: On the twenty-sixth day of October, 1904, in the October term last aforesaid, the following further proceedings were had and entered of record, to-wit:

WEDNESDAY, *October* 26, 1904.

Court met pursuant to adjournment.

Before Hon. James G. Jenkins, Circuit Judge presiding. Hon. Peter S. Grosscup, Circuit Judge. Hon. Francis E. Baker, Circuit Judge.

1090.

In the Matter of RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY ET AL.
vs.
ELBERT B. HAND ET AL., Trustees, etc.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

Now this day come the parties by their counsel and this cause now comes on to be heard on the printed record and briefs of counsel and on oral argument by Mr. Henry S. Robbins, counsel for appellants, and by Mr. John B. Simmons, counsel for appellees and the **court having heard the same takes this matter under advisement.**

And afterwards, to-wit: On the twenty-third day of September, 1905, in the October term last aforesaid, came the appellees, by their counsel Mr. John B. Simmons, and filed in the office of the clerk of this court, their motion to dismiss in the words and figures following, to-wit:

United States Circuit Court of Appeals for the Seventh Circuit.

In the Matter of RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY, W. B. MCKEAND, THE L. C. HYDE & BRITTAN BANK OF BELOIT, WIS., and CITIZENS BANK OF MUKWONAGO, WIS., Appellants,
vs.
ELBERT B. HAND, ANDREW DIETRICH, and G. E. MCDILL, Trustees of Racine Knitting Company, Appellees.

Come now Elbert B. Hand and Andrew Dietrich, surviving trustees of the above named bankrupt, Racine Knitting Company, by John B. Simmons, their counsel, and move the said Court to dismiss the appeals herein, and separately to dismiss each of said appeals, on the grounds and for the reason that the Court has no jurisdiction of said appeals, or either of them, because,

1. Within the recent decision of the Supreme Court of the United States in the Case of The First National Bank of Chicago, *et al.* against The Chicago Title and Trust Company, Trustee of Alexander Rodgers, Bankrupt, *et al.*, said appeals, and each of them, arise in and relate to proceedings in bankruptcy, and are accordingly reviewable in this court only by petition for revision under the provisions of Section 24 B of the Bankruptcy Act, and,

2. The same do not, nor does either of them, relate to any of the specific proceedings in bankruptcy from which an appeal lies under the provisions of Section 25 A of said Act.

Dated, Racine, Wisconsin, September 22, A. D. 1905.

JOHN B. SIMMONS,
Counsel for Appellees.

COOPER, SIMMONS, NELSON & WALKER,
Of Counsel.

Endorsed: Filed Sep. 23, 1905. Edward M. Holl-way, Clerk.

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held at the United States Court rooms in the city of Chicago in said Seventh Circuit on the third day of October, 1905, of the October term in the year of our Lord One thousand nine hundred and five and of our Independence the one hundred and thirtieth.

And afterwards, to-wit: On the third day of October, 1905, in th October term last aforesaid, the following further proceedings wer had and entered of record, to-wit:

TUESDAY, *October* 3, 1905.

Present: Hon. Peter S. Grosscup, Circuit Judge presiding. Ho Francis E. Baker, Circuit Judge. Hon. William H. Seaman, Circu Judge.

1090.

In the Matter of RACINE KNITTING CO., Bankrupt.

SECURITY WAREHOUSING COMPANY
vs.
ELBERT B. HAND ET AL., Trustees.

Appeal from the District Court of the United States for the Easter
District of Wisconsin.

It is ordered by the court that this cause, be, reargued and t same is hereby set down for hearing November 14, 1905.

And afterwards, to-wit: On the Twelfth day of October, 1905, the October term last aforesaid, the following further proceedin were had and entered of record, to-wit:

THURSDAY, *October* 12, 1905.

Court met pursuant to adjournment.

Present: Hon. Peter S. Grosscup, Circuit Judge Presiding. Ho Francis E. Baker, Circuit Judge. Hon. William H. Seaman, Ci cuit Judge. Hon. J. Otis Humphrey, District Judge.

Order.

It is ordered by the court that Hon. J. Otis Humphrey, Judge the District Court of the United States for the Southern District Illinois, be designated and assigned to sit in this court as a memb thereof during the present session.

Thereupon said Humphrey appeared and took his seat as a mem ber of said court.

Before Hon. Peter S. Grosscup, Circuit Judge; Hon. Francis E. Baker, Circuit Judge. Hon. J. Otis Humphrey, District Judge.

1090.

In the Matter of RACINE KNITTING Co., Bankrupt.

SECURITY WAREHOUSING COMPANY
vs.
ELBERT B. HAND ET AL., Trustees.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

Now this day come the parties by their counsel and the motion to dismiss this appeal now comes on to be heard on oral argument by Mr. John B. Simmons counsel for appellees in support of said motion, and by Mr. Henry S. Robbins, counsel for appellant in opposition thereto, and the court having heard the same takes this matter under advisement.

And afterwards, to-wit: On the second day of January, 1906, in the October term last aforesaid, the following further proceedings were had and entered of record, to-wit:

TUESDAY, *January* 2, 1906.

Court met pursuant to adjournment.

Present: Hon. Peter S. Grosscup, Circuit Judge presiding. Hon. Francis E. Baker, Circuit Judge. Hon. William H. Seaman, Circuit Judge.

Before Hon. Peter S. Grosscup, Circuit Judge; Hon. Francis E. Baker, Circuit Judge; Hon. J. Otis Humphrey, District Judge.

1090.

In the Matter of RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY, W. B. MCKEAND, THE L. C. HYDE & BRITTAN BANK OF BELOIT, and CITIZENS BANK OF MUKWONAGO,
vs.
ELBERT B. HAND, ANDREW DIETRICH, and G. E. MCDILL, Trustees of Racine Knitting Company, Bankrupt.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Eastern District of Wisconsin and was argued by counsel.

On consideration whereof, It is now here ordered, adjudged and decreed by this court that the order or decree of the said district court appealed from be, and the same is hereby affirmed with costs.

1090.

In the Matter of the RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY ET AL.
vs.
ELBERT B. HAND ET AL., Trustees.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

It is ordered by the court that the motion to dismiss this appeal be and the same is hereby overruled.

And afterward, to-wit, on the same day, to-wit: On the Second day of January, 1906, in the October term last aforesaid, there was filed in the office of the clerk of this court the opinion of the court in the above entitled cause, which opinion is in the words and figures fol lowing to-wit:

In the United States Circuit Court of Appeals for the Seventh Circuit
October Term, 1905, October Session, 1905.

No. 1090.

SECURITY WAREHOUSING COMPANY ET AL., Appellants,
vs.
ELBERT B. HAND ET AL., Trustees of Racine Knitting Company
Bankrupt, Appellees.

On Appeal from the District Court of the United States for th
Eastern District of Wisconsin.

Before Grosscup and Baker, Circuit Judges, and Humphrey, Distric
Judge.

On a creditors' petition in bankruptcy, filed Oct. 5, 1903, agains the Racine Knitting Company, a corporation engaged in manufactu ing hose and other knit goods, with factories at Racine and Steven Point, Wisconsin, the Knitting Company on Oct. 26, 1903, wa adjudged a bankrupt, and appellees were appointed receivers an later were elected trustees.

Appellees asserted a right to certain merchandise covered by re ceipts issued by appellant Security Company. Thereupon that com pany filed in the bankruptcy court its intervening petition asserting its exclusive possession and control of the merchandise, the issuance of its receipts therefor, and the negotiation by the bankrupt, prior to bankruptcy, of the receipts to the other appellants in good faith and in due course of business as security for loans. The petition further alleged that appellees were claiming title to the merchandise and were obstructing the petitioner in its possession thereof. The prayer was for an order that appellees refrain from interfering with the petitioner in its custody and control of the property.

The other appellants intervened, set up the same facts, and prayed that appellees be restrained from interfering with the Security Company in delivering the merchandise to the petitioners, and from asserting any right or title to the property as against them.

Issues were joined, and the referee reported the evidence and his findings of fact. The findings are as follows:

"1. That the Racine Knitting Company, the bankrupt, is and was during the periods involved in this reference a Wisconsin corporation, organized for the manufacture of knit goods, hosiery, and underwear, having its principal office at Racine, and factories at Beloit, Stevens Point, and Ripon.

"2. That the Security Warehousing Company is and was during the same periods a corporation of the State of New York licensed to do business in Wisconsin under Section 1771*b* of the Revised Statutes and Acts amendatory thereto, and was engaged in the business of 'field warehousing' so-called, owning no warehouses of its own and not occupying any public warehouse at any place; its general method of field warehousing being the leasing of portions of storehouses or buildings or lands occupied in whole or in part by the owners of the goods to be stored. The particular methods pursued in the present case being more fully set forth below. Its corporate purposes, as set forth upon its letter heads, being stated to be the 'warehousing of manufactured stocks and raw materials for purposes of collateral security, or as a medium of purchase and sale and guaranty of possession while remaining on premises of original owner.' The same letter head also contained the words 'public warehousemen.' This style of advertising itself was in use in October, 1901, and for some time thereafter, but was abandoned later on except as to the words 'Public Warehousemen,' although at what precise date does not appear. The only reason for the change being stated by the witness Banks, its District Manager, that the supply of the older form was exhausted. The Warehousing Company has never complied with Chapter 251, Laws of 1899 of this State.

"3. In October, 1901, the Racine Knitting Company executed an Agreement of Lease to the Security Warehousing Company (Exhibit 'A') of certain premises at the City of Racine, which are described in such agreement as 'the entire first and second floors of brick building known as Chicago, Milwaukee & St. Paul Railway Company's

premises, formerly occupied as a machine shop, situate Lots 5 and
Block 6, Harbor Addition to City of Racine; said floors measurin
40 feet from North to South by 60 feet from East to West.' Th
lease was for the term of one year, and for so long thereafter as an
property should remain upon the premises for which receipts of th
Warehousing Company were outstanding and in force 'and un
duly released of record, for a yearly rental of One Dollar and oth
good and valuable considerations, the receipt of which in advan
is hereby acknowledged.' It was further stipulated therein that th
leased premises should be used and occupied exclusively for th
storage of personal property and for the transaction of business co
nected therewith on the part of the Warehousing Company. Th
the latter should have, for purpose of inspection or removal of pro
erty, convenient access through any part of the abutting premis
occupied by the lessor. The premises so leased were not in fa
wholly occupied by the lessees, but only the second floor and tho
portions of the first floor marked Sections 'A' and 'C' on the pl
Exhibit 'M.' The remainder being occupied by the bankrupt an
other parties for storage purposes. A further and similar lease as
its terms was executed between the same parties, dated January 24t
1903, (Exhibit 'C') of a part of the floor space 50 feet by 30 feet
the storage warehouse of the bankrupt situated upon its facto
premises at Stevens Point and hereinafter more fully described.

"4. Cotemporaneously with the execution of these leases t
parties thereto entered into agreements in form as shown by Exhi
'D' setting forth among other things that the Knitting Compa
desired the Security Company to receive and issue storage recei
for certain of its goods and warranting the premises suitable for t
purpose, agreeing to keep the same in repair and indemnify t
Warehousing Company against loss, damage, or destruction of t
property, and to pay beside the specific storage charges and expens
the amount of custodian's salary up to five dollars per month, t
charges for storage being based upon the value and not upon t
bulk or physical character of the goods to be stored.

"5. Pursuant to such arrangements the parties thereto caused to
stored in the premises described in these leases certain of bankrup
goods, both at Racine and at Stevens Point, for which the Wareho
ing Company issued and delivered to the bankrupt twelve warra
or storage receipts upon the goods at Racine, and other twelve simi
instruments on the goods stored at Stevens Point, in tenor and effe
and general form as shown by Exhibit 'B,' of which storage wa
rants six were delivered to The Hyde and Brittan Bank as securi
for notes to the amount of $5300.00, of which notes or renewa
thereof copies are shown in Exhibit 'E,' and delivered the remaini
eighteen receipts to the petitioner McKeand, five of which were su
sequently transferred to the Citizens Bank of Mukwonago as securi
for a note of two thousand dollars held by said bank, of which no
or renewal thereof a copy is shown at Exhibit 'F,' and the petition

McKeand holds the remainder as security for notes to the amount of $6800.00, copies of which notes or renewals thereof are shown at Exhibit 'G.' Upon the issue of such storage receipts, manifests of the goods therein mentioned were made and certified to by the bankrupt and by the person named as custodian by the Warehousing Company; at the foot of each manifest was appended the certificate of the Warehousing Company, signed by its District Manager that storage receipts had been issued upon the property and giving the numbers used for identification (see Exhibit 'H'). The storage receipts or warrants recited the receipt of the therein designated goods to be stored, subject to the order of the Racine Knitting Company, which latter Company caused them to be severally endorsed in blank by a proper officer, and these warrants are the same warrants held by the several petitioners and claimed by them to confer title and the right of possession to the property therein referred to as security upon the several promissory notes held by the respective claimants and above referred to. It is admitted for the purposes of this reference that the petitioners received the several notes and warrants purporting to secure the same, as stated and claimed by them, and are the holders thereof, or of notes taken in renewal and extension of the original notes upon the same alleged security, except that as to the petitioner McKeand his claim is disputed by the receivers and trustees, who claim that upon the adjustment of unsettled balances between himself and the bankrupt he would be found to owe the bankrupt-estate. As such claims must be determined, in the opinion of the referee, upon objections filed to McKeand's proof of debt, in the ordinary course of procedure and not upon this reference, neither party is to be concluded or prejudiced by anything on this reference as to the amount of McKeand's claim, or any offsets, counter-claims or objections that the trustees may have interposed or be advised to interpose hereafter.

"6. That the several petitioners and receipt holders, The Hyde and Brittan Bank, Citizens Bank of Mukwonago and W. B. McKeand, at all times prior to the institution of the bankruptcy proceedings were unacquainted, either from inspection or inquiry, with the physical nature of the storage of the manifested goods, or the warehousing methods of the Security Warehousing Company, and did not inquire with respect thereto either of the Warehousing Company or the Knitting Company, but did make inquiry as to the standing and reputation of the Warehousing Company and were satisfied therefrom that such standing and reputation were good and relied thereon and upon the contents of the storage receipts themselves. But, that the Citizens Bank of Mukwonago understood that its manifest goods were stored in buildings belonging to or occupied by the bankrupt, and the petitioner McKeand was at all times a director of the bankrupt, and part of the time an officer thereof and was informed after the acceptance of the storage receipts and notes purporting to be secured thereby that the goods referred to in such storage receipts were stored in the warehouse building of the Railway Company at Racine, in part used by the Knitting Company, but had not seen and was not specially acquainted with the storage premises leased to the Warehousing Company.

"7. The custodians in local charge of the warehoused goods, both at Racine and Stevens Point, and their respective deputies, were employees of the bankrupt at all times prior to the institution of the bankruptcy proceedings, were selected and nominated by the bankrupt, but received their appointments from the Warehousing Company, which appointments, and instructions and agreements for their compensation and the designation of their prescribed duties were set forth in written contracts in form and substance in all respects as shown by Exhibit 'J,' and all expense incident to the storing arrangements, such as fees and cost of indemnity bonds of custodians, storage charges and travelling expenses of the Warehousing Company and its servants for purposes of inspection, delivery and the like, were charged to and collected from the Knitting Company.

"8. The premises so as aforesaid leased by the bankrupt to the Warehousing Company at Stevens Point consisted of a floor space thirty feet by eleven feet, on the inside of the bankrupt's store-room, separated from the remainder of such store-room by a substantial slatted enclosure or fence-like paling of boards from floor to ceiling built by the engineer of the Knitting Company and at its instance, and provided with a sliding door at the North end at the point marked 'X' on Exhibit 'I,' which door was constructed in like manner and locked by a suitable padlock of the 'Jail-lock' type about two inches square, made of bronze and marked 'Premises of Security W'h's'g. Co. of N. Y. Chicago, Ill.' The first two and the last two words of this legend being in raised letters and the balance in stamped or depressed letters on each of the two faces of the padlock; said letters being about one-sixth of an inch in height, the raised letters showing clearly in ordinary light, the stamped letters indistinct but legible in a good light. The lock was affixed by the Warehousing Company and the key delivered to its appointed custodian by the Warehousing Company, whose manager had also a pass-key to all the locks of his company. The custodian at Stevens Point was during all the time cashier of the bankrupt, having also principal charge of its stock of goods and materials at Stevens Point and who kept the key upon a ring, with other keys, both personal and those of the bankrupt in or upon the cashier's desk during office hours where the same was accessible and occasionally used by the manager of the Knitting Company, and at other times the key was kept upon her person. The door was kept locked except when necessary to enter the enclosure. Upon the inside of the enclosure over the door and at the further end of the enclosure were fastened up cardboard signs 'at points X and Z Exhibit "I,"' which signs were upon substantial manilla board, printed in black letters of good size and of which Exhibit 'K' is a specimen. In September 1903 just before the institution of bankruptcy proceedings the sign over the door was removed by the Warehousing Company and replaced upon the door itself outside the enclosure. Upon the cases of goods were put small cards of identification like Exhibit 'L' stating the property to be in the possession of the Security Warehousing Company. The boxes and cases were piled six to seven feet high, and there were also boxes and cases piled in the warehouse outside the paling, and this outer space appears to have been crowded much of the time to such an extent as to preclude observation of the large signs without climbing upon the boxes. As to light the testimony is conflicting; there were two windows hung with close shutters, and unless the shutters were open there could have been very little light, and when opened some of the light would be cut off by the piles of goods in store. Access to the enclosure itself was possible only by way of the door '*y*' leading out of the warehouse building and through the store-room to the door '*x*,' this door '*y*' being secured only by the lock of the Knitting Company to which there were two keys kept on its premises and accessible to its servants, but to which the Warhousing Company had no key, and could gain access to the building only by using one of the keys of the Knitting Company. The store-house was mostly invisible from the street on which the factory premises of the bankrupt fronted and of which premises such store-house was an integral part, and the property was enclosed by a fence with three gates on the west or side farthest from the store-room, one of which must be passed to gain access to the store-house building. There were no signs or marks on the outside of said building or any part of the factory premises indicating any occupation or use by the Warehousing Company, or that it had thereon any goods in store.

"9. The premises so as aforesaid leased by the bankrupt to the Warehousing Company at Racine and used by the Warehousing Company consisted of the floor space of the second floor, and part of the first floor of a two story brick building owned by the C. M. & St. P. Railway Company, part of which building was leased by it to the Knitting Company (see Plats Exhibit 'M' and Exhibit 'N' which are admitted as to the plats only and not as to any printed recitals thereon tending to support the petitioners' contention). These premises are no part of the Racine plant or office property of the bankrupt, but are situated several blocks distant therefrom. The floor spaces used by the Warehousing Company were enclosed by palings or fence-like partitions similar to those constructed at Stevens Point, but not extending more than ten or twelve feet above the floor, each having a hinged door secured by lock of the same description as that heretofore mentioned, and within these enclosures so constructed the manifest goods were placed. Access to the building is through an outside door forming a general entrance (shown at 'V' on Plat Exhibit 'M') used in common by the occupiers of the building and not secured; there were numerous windows and sufficient light. In each of the two enclosures Sections 'A' and 'C' (Exhibit 'M') were placed one of the large cardboard signs above referred to, and one on the second floor on a beam near the elevator and smaller signs like Exhibit 'O' were placed on the doors leading to the enclosures 'A' and 'C' and also one on the stairway door. Signs were also placed on the inside of the elevator enclosure on the second floor, which enclosure was a paling similar to the enclosure 'A' and 'C' on the first floor, and small identification cards (Exhibit L) on each lot of goods stored or on each case. Where the cards were not placed upon each box the lots were separated by a narrow aisle or opening a few inches in width, and this method of storing and marking applied to the goods in all of the above mentioned enclosures. The enclosure about the elevator opened to the second floor by two doors ('*xx*' and '*yy*' Exhibit 'N') fastened from the inside. Goods were sometimes left in the enclosures by the bankrupt, after being released, to prevent pilfering. Other goods not manifested belonging to the bankrupt, principally 'premium goods' so-called such as small tables and cabinets, were stored in the same building, and on three or four occasions manifested goods were taken out of the enclosures by the custodian who was in the bankrupt's employ and who took them out at the bankrupt's direction and other goods were substituted therefor. There were no signs or marks on the outside of the building indicating any occupation or use by the Warehousing Company or that any manifested goods were stored therein.

"10. The receivers and trusteees are in possession of the several buildings containing the manifested goods, but the locks of the Warehousing Company still remain upon the enclosures, and upon the enclosures at Racine the trustees have added locks of their own, while at Stevens Point the trustees control exclusively all access to the building containing the enclosure within which are the manifested goods at that place, but the lock of the Warehousing Company is still upon the door leading to such enclosure, which door was temporarily removed by the trustees or receivers by taking off the hinges for the purpose of entering the enclosure.

"11. Demand was duly made upon the Warehouse Company by each of the receipt holders of the goods called for by their respective receipts."

The receipts mentioned in the findings were of the form as shown in the following:

"R-N 8117 Guaranteed Storage Receipt of No. 3244
Security Warehousing Company.

General Offices: 346 Broadway, New York.
District Office: 540 The Rookery, 217 La Salle St., Chicago.

Date December 1, 1902, Issued at Chicago, Illinois.

"The Security Warehousing Company certifies that it has received on storage in Premises, No. 134, located at Racine, Wis., 1s

Floor C. M. & St. P. Ry. Co.'s Whse. subject to the order of Racine Knitting Company, Racine, Wisconsin, the following described Commodity, viz: Four (4) cases, Nos. 4070, 4073, 4080 and 4090, said to contain not less than Two Hundred Sixty (260) Dozen Pairs Assorted Hosiery and be as per Manifest herewith designated as Exhibit 'A-235.' To be known as Lot No. 286.

"Said Commodity to be retained on Storage and delivered only upon surrender of this receipt properly endorsed and payment of all charges thereon, Provided, however, if such Commodity or any part of it remaining underlivered be not called for within one year from the date hereof, the Security Warehousing Company may, at its option, upon giving three days' notice of its election so to do, store the whole or the undelivered part of such Commodity elsewhere at the expense of whomsoever may then be entitled to the same. The Security Warehousing Company in no event shall be under any liability for errors or mistakes committed in the inspection of such Commodity unless claim in writing therefor be made upon it within one year from the date hereof, and the said Company shall not be liable for the destruction of, or damages to, such Commodity by fire, water or from inherent qualities of the property.

"This Receipt void unless signed by an Agent and Countersigned by W. H. Banks, District Manager.

SECURITY WAREHOUSING
COMPANY,
By ALEX GREIG, *President.*

Charges as per Contract,
E. C. CURTIS, *Agent.*

Countersigned:
W. H. BANKS,
District Manager."

Certain exceptions by both sides were overruled by the court, and the petitions were dismissed for want of equity. Appellees have interposed a motion to dismiss the appeal.

BAKER, Circuit Judge, delivered the opinion of the court:

1. The motion to dismiss the appeal is based on the contention that the record presents a "proceeding in bankruptcy" and not a "controversy arising in the course of bankruptcy proceedings." The distinction was recently considered by this court in the case of *In re* Friend, 134 Fed. 778. The pleadings filed by the appellants in the District Court were in substance bills in equity to establish and enforce their liens and right of possession, and to enjoin the appellees from beclouding their rights and disturbing their possession. The District Court, on the initiative of the appellants, had complete jurisdiction to determine these questions in a plenary suit,

which was an independent controversy between adverse claimants and the trustees, and was not a part of the proceedings in the administration of the estate. Dodge *v.* Norlin, 133 Fed. 363; Liddon *v.* Smith, 135 Fed. 43; Marshall *v.* Knox, 16 Wall. 551; Stickney *v.* Wilt, 23 Wall. 150; Hewitt *v.* Berlin Machine Works, 194 U. S. 296. The claim of appellees that the authority of the cases above cited is impaired by the decision in First Nat. Bank *v.* Title & Trust Co., 198 U. S. 290, is entirely unwarranted. In that case the receiver filed a petition asking the court's directions in respect to a sale of certain property. In the petition the receiver recited that he had taken possession of the property. The adverse claimants appeared specially and objected to the jurisdiction of the District Court to decide the controversy respecting their right of possession. Inasmuch as the adverse claimants were entitled to have their rights determined in a plenary suit, the District Court was without authority to proceed against them summarily, and the District Court could not entertain a plenary suit brought by the trustee, "unless by consent of the proposed defendant." Section 23*b*. The fact that the adverse claimants were entitled to a plenary hearing in a proper tribunal did not touch the other fact that the receiver's petition to the court for instructions respecting a sale of the property was a proceeding in bankruptcy. As the present record discloses a "controversy arising in the course of bankruptcy proceedings," the appeal was properly taken under Sec. 24*a;* and the motion to dismiss is accordingly overruled.

2. Error is predicated on the overruling of appellants' fourth and sixth exceptions to the referee's report. The fourth asserts that the referee erroneously failed to find "that all the doors to the Security Warehousing Company's enclosures at Racine were kept locked, and the keys thereof were always in the custody of the custodian Amend or of the sub-custodian Netzinger;" and the sixth "that the two doors at the elevator opening on the second floor (at Racine) were always kept locked, and the keys thereof were continuously in the custody of the custodian (Amend) or sub-custodian (Netzinger)." These exceptions assume that the evidence required a finding that the enclosures at Racine were the Security Company's, that is, that, regardless of the paper forms employed by the Knitting Company and the Security Company, the possession and the use of the enclosures were in fact unequivocally and exclusively in the Security Company; and that the doors thereto were not opened by Amend or Netzinger except as agents of, and for the purposes of, the Security Company. The evidence shows that the enclosures in the railroad round-house were built by the Knitting Company; that the lease from the Knitting Company to the Security Company included the entire first and second floors, though the enclosures did not; that the Knitting Company, after the lease, continued to use, for its own storage purposes, the space outside of the enclosures, as it had before; that the goods (hosiery and underwear) were easily movable from place to

place; that goods not "manifested" were put in and taken out of the enclosures by employees of the Knitting Company; that Amend was assistant general manager of the Knitting Company, and Netzinger was shipping-clerk at Racine; that Amend was absent from Racine a large part of the time, and left the keys with Netzinger; that the Security Company did not appoint, and Amend had no authority to appoint, Netzinger sub-custodian; and that Netzinger as shipping-clerk filled orders from cases without or within the enclosures as need required. These, and other facts regarding visible tokens of a change of possession, which will be considered later, satisfy us that the referee's finding was as favorable to appellants as the evidence justified.

3. Were the receipts of the Security Company entitled to the status of negotiable instruments the transfer of which operates as delivery?

Their validity as proper warehouse receipts is to be determined by the laws of Wisconsin. Hallgarten *v.* Oldham, 135 Mass. 1, 46 Am. R. 433; *In re* St. Paul & Kansas City Grain Co., — Minn. —, 94 N. W. 218.

Ch. 340, Laws of 1860 (amended by Ch. 73, Laws of 1863), conferred negotiability upon "warehouse receipts, * * * given for goods * * * deposited with any warehouseman, wharfinger, vessel, boat or railroad company, or other person." That the "other person" must be *ejusdem generis* and must assume an obligation to the public like an inn-keeper, or a common-carrier, and that the place of business of every one within the class must be openly held forth as such, is shown in Shephardson *v.* Cary, 29 Wis. 34: "To uphold the receipt as a proper warehouse document, transferring the title to the property and operating as a good constructive delivery of it to the vendee, it must in all cases distinctly appear that it was executed by a warehouseman,—one openly engaged in that business,—and in the usual course of trade."

In Geilfuss *v.* Corrigan, 95 Wis. 651, decided in 1897, a furnace company issued formal warehouse receipts upon its own iron, stored in its own yards, to a mining company which used them as collateral. The court said: "The so-called storage warrants were not warehouse receipts. * * * In order to be such they must be issued by a *warehouseman* or one openly engaged in the business of storing property for others for a compensation. * * * Not only was there no proof in this case that the furnace company was in the warehousing or storage business, but, on the contrary, the proof was conclusive that it was not in such business, and never had been. The fact that it surreptitiously issued the false receipts in question did not constitute it a warehousing corporation. As well might it be argued that the issuance of counterfeit bills constitutes the counterfeiter a bank."

That was a case of a manufacturer's issuance of documents in the form of warehouse receipts for his own goods, stored on his own premises. Should owners of public warehouses in Wisconsin be permitted to [illegible] negotiable receipts for their own goods, stored in their own warehouses? Should any other persons, not owners of public warehouses, issue negotiable warrants for their own property, in their own possession? These questions were answered by the legislature in 1899. The act concerning warehouse receipts was amended by adding: "And any warehouse receipt issued by any person or persons keeping, running and managing a public warehouse, on goods, wares or merchandise owned by him or them, and which he or they have at the time of issuing such warehouse receipt actually stored in the said warehouse, shall have the same force and effect to protect the owner and holder thereof on any loan or advance of money he may have made on the same, as a warehouse receipt issued by the keeper and manager of a public warehouse to any other person who brings goods, wares or merchandise to be stored in such public warehouse." It was also enacted that any person owning grain, or certain other named commodities, who owned or controlled the structure in which his grain was stored, might issue negotiable receipts, provided he first should file in the office of the register of deeds of the county a written statement of his intention and an accurate description of the structure and its location, and should keep an open registration of all receipts issued and should certify on his receipts that the act had been fully complied with.

These statutes and decisions prove to us that in Wisconsin one who is not an owner of a "public warehouse" or a grain-owner that has complied with the last recited statute, can obtain a negotiable warehouse receipt for his own goods in no other way than by taking them to a "public warehouse," that is, a place that is held out to the public as being one where any member of the public who is willing to pay the regular charges may store his goods and then sell or pledge them by transferring the receipt given him by the keeper or manager.

In the present case the main office of the Security Company was in New York; the nearest district office was in Chicago; from there the receipts were issued; and in Wisconsin the Security Company had no office and no warehouses, unless the enclosures within the buildings of the Knitting Company at Racine and Stevens Point be counted such. The receipts themselves would put the holders thereof on notice of these facts. And at Racine and Stevens Point the Security Company gave no evidences to the public of its presence. No signs were displayed to the passer-by. No business was sought from the public. The only property within the enclosures was the Knitting Company's. The Knitting Company did not want storage room, but collaterals, which the Security Company agreed to furnish for a commission upon the amount thereof plus all expenses. The Security Company's only agents on the scene were the agents of the Knitting Company who cared for and shipped out its goods. That this was the only business contemplated is disclosed by the agreement that the Knitting Company should be restored to full possession of the premises at any time it returned the outstanding receipts. This, in our judgment, was not warehousing within the law of Wisconsin.

In Union Trust Co. *v.* Wilson, 198 U. S. 530, it is said: "Although the first question does not refer in terms to the statutes of Illinois, it is proper to add that we see no sufficient reason for denying to the place of storage the character of a public warehouse. 'Public warehouses of Class C shall embrace all other warehouses or places where property of any kind is stored for a consideration.' Rev. Stat. c. 114, § 2. These sweeping words embrace any place so used, whether owned or hired by the warehousemen, and, if so, they embrace as well a place hired of the owner of the goods as one hired of anybody else." We find no provision in Wisconsin that warrants the disregard of the elements of the publicity that attaches to an openly conducted business, and the obligation to serve the public at large.

4. Though the receipts be ineffective as proper warehouse receipts, the Security Company may have had such a possession that the transactions may be upheld as pledges by the Knitting Company to the appellant lenders, the Security Company standing as the agent of the lenders for the purposes of possession.

Wisconsin, in addition to the usual requirements of an actual and continued change of possession of chattels sold or covered by an unrecorded mortgage, has enacted that conditional sales shall be recorded. This unmistakable policy in regard to secret liens on personalty should forbid any laxity in the construction or application of the law of pledges. Seymour *v.* Colburn, 43 Wis. 67.

Delivery of possession is the very life of a pledge. No mere agreements respecting possession can create it. The contract of pledge cannot exist outside of the fact of change of possession. The pledgor must dispossess himself openly, completely, unequivocally, and "without deceptive combinations which lead third persons into error as to the real possessor of the thing." And the pledgee must take and maintain an open, exclusive and unequivocal possession. Dirigo Tool Co. *v.* Woodruff, 41 N. J. Eq. 336; Drury *v.* Moors, 171 Mass. 52; Bank *v.* Jagode, 186 Pa. St. 556; Casey *v.* Cavaroc, 96 U. S. 467.

At Stevens Point the enclosure was in the Knitting Company's own warehouse, which was openly occupied and used by it after the lease as well as before. No signs on the building or on the door leading into it announced the presence of the Security Company. The enclosure in one corner of the building was of slats, between which the packages of goods inside could be seen. No signs regarding the Security Company's possession were placed on the outside of the enclosure in 1901 nor at any time until in September, 1903, very shortly before the bankruptcy proceedings were begun, when the district manager of the Security Company came from Chicago and changed a sign from inside, over the door, to outside, on the door. The signs inside were ambiguous in that they referred to bins and chutes, and much of the time were not to be seen on account of the piled-up goods. The Security Company's agent on the ground to maintain an open, unequivocal and exclusive possession was the cashier of the Knitting Company, who had charge of the stock and of shipping. The key to the enclosure was kept on a ring with other keys used in the business of the Knitting Company; and this bunch of keys was accessible to the manager of the Knitting Company, and was left at the office during the cashier's absences. Substantially the same conditions obtained at Racine.

If a creditor desired to look over the property of the Knitting Company, what would be the probable result? The cashier or shipping-clerk or manager could take the bunch of keys, unlock the warehouse, show the raw materials and broken stock outside of the slatted enclosure, point out the quantity of goods within the enclosure, explain the necessity of the enclosure to prevent pilfering of the hosiery, etc., when the warehouse was open; and nothing would warn the creditor of the deception. And the evidence satisfies us that at least one creditor was so deceived.

So far from the Security Company's maintaining an open, exclusive, unequivocal possession during the two years this arrangement was carried on, it seems to us that the Security Company might as well have been eliminated, and the Knitting Company have employed its own stock-keepers and shipping-clerks as custodians for intending lenders, directly, instead of indirectly through the Security Company. In that view this becomes one of the cases "in which the exclusive power of the so-called bailee" (Union Trust Co. *v.* Wilson 198 U. S. 530, 537) tapers away to nothingness. Drury *v.* Moors, 171 Mass. 252; Bank *v.* Jagode, 186 Pa. St. 556.

5. The appellant lenders finally assert that, if they have neither the negotiable receipts of a public warehouseman nor a pledge through an unequivocal possession by their agent, the Security Company, nevertheless they have "equitable liens" which entitle them to the possession of the property as against the trustees.

The trustee succeeds, as of the date of the adjudication, not only to the bankrupt's title and possessory right to the property, but also to the right of the bankrupt's creditors to assert that the title and possessory right, as to them, is in the bankrupt. Sec. 70, (*a*), (4) and (5); Sec. 70, (*e*). Liens that remain undisturbed are those that were good against both the bankrupt and his creditors immediately preceding the adjudication. Hewitt *v.* Berlin Machine Works, 194 U. S. 296; Thompson *v.* Fairbanks, 196 U. S. 516; Chesapeake Shoe Co. *v.* Seldner, 122 Fed. 593. The conclusion results not merely from a consideration of the nature of the trustee's succession, but as well from the inhibitions of the act. Sec. 67 (*a*) vitiates as liens all "claims which for want of record or for other reasons" the bankrupt's creditors might have avoided as liens. That is, no secret liens or equities shall prevail against the trustee that were not good against the general, unsecured creditors represented by the trustee. Sec. 67 (*d*) protects "liens given or accepted in good faith * * * and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice." The liens thus saved are liens, not promises to give liens, not equitable claims that what ought to have been done shall be considered done, but liens perfected according to law. "Notice" as well as "a present consideration" is necessary. If a chattel mortgage be given in good faith and for a present consideration, recording is not obligatory, but the imparting of notice is. Recording is one way, another is actual and continued change of possession. If a pledge be similarly given, recording is not "necessary in order to impart notice," because no provision has been made that a record of the fact shall be notice of the fact; but what is "necessary in order to impart notice" is the delivery of exclusive and unequivocal possession. We think that Sec. 67 (*d*) does not change Sec. 67 (*a*) into the meaning that "claims which for want of record or for other reasons" are not good liens as against creditors are good liens as against the estate if the lender advanced his money without any actual intent to defraud unsecured creditors. He is chargeable with the constructive intent which is attributed to secrecy.

The decree is affirmed.

And afterwards, to-wit: On the first day of February, 1906, in the October term last aforesaid, the following further proceedings were had and entered of record, to-wit:

THURSDAY, *February* 1, 1906.

Court met pursuant to adjournment.

Present: Hon. Peter S. Grosscup, Circuit Judge presiding. Hon. Christian C. Kohlsaat, Circuit Judge.

1090.

In the Matter of the RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY ET AL.
vs.
ELBERT B. HAND ET AL., Trustees, etc.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

Upon motion for counsel for appellants, and the court being fully advised in the premises, it is hereby ordered that the mandate herein be stayed until twenty days.

And afterwards, to-wit: On the twentieth day of February, 1906, in the October term last aforesaid, came the appellants, by their counsel Mr. Henry S. Robbins, and filed in the office of the clerk of this court their petition for appeal to the Supreme Court of the United States, together with the assignments of errors, order allowing appeal and bond on appeal, in the words and figures following to-wit:

In the United States Circuit Court of Appeals for the Seventh Circuit.

No. 1090.

In the Matter of the RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY, W. B. MCKEAND, THE L. C. HYDE & BRITTAN BANK OF BELOIT, and CITIZENS BANK OF MUKWONAGO, Appellants,

vs.

ELBERT B. HAND, ANDREW DIETRICH, and E. MCDILL, Trustees of Racine Knitting Company, Bankrupt, Appellees.

Petition for Appeal to the Supreme Court.

The above mentioned appellants, Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, by Henry S. Robbins, their counsel, respectfully show that the above entitled cause is now pending in the United States Circuit Court of Appeals for the Seventh Circuit, and that a judgment has therein been rendered on the 2nd day of January, A. D. 1906, affirming the decree of the District Court of the United States for the Eastern District of Wisconsin, and that the matter in controversy in said suit exceeds $1,000, besides costs; that this cause is one in which the United States Circuit Court of Appeals for the Seventh Circuit has final jurisdiction, and that it is a proper cause to be reviewed by the Supreme Court of the United States on appeal.

Wherefore, the said appellants pray that an appeal be allowed them in the above entitled cause, directing the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit to send the record and proceedings in said cause, with all things concerning the same, to the Supreme Court of the United States, in order that the errors complained of in the Assignment of Errors herewith filed by the said appellants may be reviewed, and if error be found, corrected according to the laws and customs of the United States.

HENRY S. ROBBINS,
Counsel for Appellants.

Endorsed: Filed Feb. 20, 1905. Edward M. Holloway, Clerk.

In the United States Circuit Court of Appeals for the Seventh Circuit.

No. 1090.

In the Matter of the RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY, W. B. MCKEAND, THE L. C. HYDE & BRITTAN BANK OF BELOIT, and CITIZENS BANK OF MUKWONAGO, Appellants,

vs.

ELBERT B. HAND, ANDREW DIETRICH, and E. MCDILL, Trustees of Racine Knitting Company, Bankrupt, Appellees.

Now come Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, by Henry S. Robbins, their solicitor, and jointly and severally file the following Assignments of Errors to the decree of the United States Circuit Court of Appeals in the above entitled cause, and upon which they jointly and severally rely for grounds of reversal on appeal:

1. The Circuit Court of Appeals erred in affirming the decree of the District Court.
2. The Circuit Court of Appeals erred in not reversing the decree of the District Court.
3. The Circuit Court of Appeals erred in not reversing the decree of the District Court and remanding the cause with directions to said District Court to adjudge and decree that the petitioner, Security Warehousing Company, be given the property covered by its said receipts shown in the record, for the benefit, or as custodian, of the other petitioners and appellants herein.
4. The Circuit Court of Appeals erred in not reversing said cause and remanding the same to the District Court with directions to enter a decree adjudging the petitioner McKeand entitled to a lien for the amount claimed upon the property mentioned in, and covered by, his certain receipts set out in the record herein, and to receive thereon the property covered by said receipts so held by him.
5. The Circuit Court of Appeals erred in not reversing said cause and remanding the same to the District Court with directions to enter a decree adjudging the petitioner The L. C. Hyde & Brittan Bank of Beloit entitled to a lien for the amount claimed upon the property mentioned in, and covered by, its certain receipts set out in the record herein, and to receive thereon the property covered by said receipts so held by it.
6. The Circuit Court of Appeals erred in not reversing said cause and remanding the same to the District Court with directions to enter a decree adjudging the petitioner, Citizens Bank of Mukwonago entitled to a lien for the amount claimed upon the property

mentioned in, and covered by, its certain receipts set out in the record herein, and to receive thereon the property covered by said receipts so held by it.

7. The Circuit Court of Appeals erred in not adjudging that these petitioners' 1st, 2nd, 3rd, 4th, 5th, and 6th, exceptions to the Referee's report, and each of them, was well taken, and in not, on this account, reversing said cause and remanding the same to the District Court with directions to sustain such exceptions and enter a decree in favor of these petitioners and appellants.

8. That the Circuit Court of Appeals erred in not finding that the Security Warehousing Company was, on the 17th day of November, 1903, the date of the filing of its original petition herein, and on the 5th day of October, 1903, the date of the filing of the petition in bankruptcy herein, entitled to, and had possession of, the property mentioned in its said receipts, and in not remanding said cause to the District Court with directions to give effect to, and enjoin the trustees in bankruptcy from interfering with, said possession of said property.

9. That the Circuit Court of Appeals erred in adjudging that the receipts issued by the Security Warehousing Company were not valid as warehouse receipts under the laws prevailing in Wisconsin, and in not reversing the decree with directions to the District Court to enter a decree for such Warehousing Company.

10. That the Circuit Court of Appeals erred in not adjudging that at the time said Racine Knitting Company was adjudged a bankrupt, said McKeand, The L. C. Hyde & Brittan Bank, and Citizens Bank of Mukwonago, severally held the properties mentioned in their several receipts as pledgees, and in not remanding said cause to the District Court with directions to decree accordingly.

11. That the Circuit Court of Appeals erred in not adjudging that at the time said Racine Knitting Company was adjudged a bankrupt, said McKeand, The L. C. Hyde & Brittan Bank, and Citizens Bank of Mukwonago, severally had equitable liens upon the property mentioned in their said several receipts, and in not remanding said cause to said District Court with directions to so decree.

HENRY S. ROBBINS,
Solicitor for Appellants.

Endorsed: Filed Feb. 20, 1905. Edward M. Holloway, Clerk.

In the United States Circuit Court of Appeals for the Seventh Circuit.

No. 1090.

In the Matter of Racine Knitting Company, Bankrupt.

Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, Appellants,

vs.

Elbert B. Hand, Andrew Dietrich, and E. McDill, Trustees of Racine Knitting Company, Bankrupt, Appellees.

It is hereby ordered that the appeal in the above entitled cause to the Supreme Court of the United States be, and is hereby, allowed as prayed, the same to operate as a supersedeas.

P. S. GROSSCUP,
Judge United States Circuit Court
of Appeals for the Seventh Circuit.

Endorsed: Filed Feb. 20, 1905. Edward M. Holloway, Clerk.

Know all men by these presents, That we, Security Warehousing Company, a corporation, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, as Principals, and National Surety Company of New York, as Surety, are held and firmly bound unto Elbert B. Hand, Andrew Dietrich, and E. McDill, Trustees of the estate of Racine Knitting Company, Bankrupt, in the full and just sum of Five Hundred Dollars ($500.00), to be paid to the said Elbert B. Hand, Andrew Dietrich, and E. McDill, Trustees of the estate of Racine Knitting Company, Bankrupt, their heirs, executors, administrators, successors, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally by these Presents.

Sealed with our Seals, and dated this 20th day of February, A. D. 1906.

Whereas, lately, at the January Term, A. D. 1904, of the District Court of the United States, for the Eastern District of Wisconsin, in a suit depending in said court between said Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, as Petitioners, and Elbert B. Hand, Andrew Dietrich, and E. McDill, Trustees of the estate of Racine Knitting Company, Bankrupt, as Respondents, a certain decree was rendered against the said Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, from which said decree of the District

Court of the United States for the Eastern District of Wisconsin, the said Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, prayed for and obtained an appeal to the United States Circuit Court of Appeals for the Seventh Circuit: And, Whereas, the said United States Circuit Court of Appeals did, on the 2nd day of January, A. D. 1906, affirm the decree of the United States District Court aforesaid, from which order of affirmance and judgment of the said United States Circuit Court of Appeals the said Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, have prayed for and obtained an appeal to the Supreme Court of the United States:

Now, therefore, the condition of this obligation is such, that if the said Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, shall prosecute said appeal with effect, and answer all damages and costs if they fail to make said appeal good, then this obligation shall be void, otherwise to remain in full force and virtue.

SECURITY WAREHOUSING CO.,
By C. H. VAYNE, *Its President.*

[SEAL.]
Attest:
G. B. WING, *Sec'y.*

W. B. McKEAND. [SEAL.]
THE L. C. HYDE & BRITTAN BANK,
By E. S. GREENE, *Its Cashier.*

[SEAL.]
Attest:
R. K. ROCKWELL,
Ass't Cashier.

CITIZENS BANK OF MUKWONAGO,
By L. E. YOUMANS, *Its President.*

[SEAL.]
Attest:
FRANK A. McKENZIE, *Cashier.*

NATIONAL SURETY COMPANY,
By WILLIAM J. GRIFFIN,
Its Vice President.

[SEAL.]
Attest:
SAMUEL G. FREEMAN, *Secretary.*

Approved Feb. 20, 1906.
P. S. GROSSCUP, *Judge.*

Endorsed: Filed Feb. 20, 1905. Edward M. Holloway, Clerk.

And afterwards, on the same day, to-wit: On the twentieth day of February, 1906, the following further proceedings were had and entered of record, to-wit:

TUESDAY, *February* 20, 1906.

Before Hon. Peter S. Grosscup, Presiding Judge.

1090.

In the Matter of RACINE KNITTING COMPANY, Bankrupt.

SECURITY WAREHOUSING COMPANY, W. B McKEAND, THE L. C. HYDE & BRITTAN BANK OF BELOIT, and CITIZENS BANK *and Citizens Bank* OF MUKWONOGO

vs.

ELBERT B. HAND, ANDREW DIETRICH, and E. McDILL, Trustees of Racine Knitting Company, Bankrupt.

Appeal from the District Court of the United States for the Eastern District of Wisconsin.

It is hereby ordered that the appeal in the above entitled cause is allowed as prayed, the same to operate as a supersedeas.

United States Circuit Court of Appeals for the Seventh Circuit.

I, Edward M. Holloway, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing typewritten and printed pages, numbered from 1 to 47, inclusive, contain a true copy of the papers filed (except briefs of counsel) and proceedings had thereon in the United States Circuit Court of Appeals for the Seventh Circuit, in the case of In the Matter of Racine Knitting Company, Bankrupt—Security Warehousing Company, W. D. McKeand, The L. C. Hyde & Brittan Bank of Beloit and Citizens Bank of Mukwonago, *vs.* Elbert B. Hand, Andrew Dietrich and G. E. McDill, Trustees of Racine Knitting *Machine*, Bankrupt, No. 1090, October Term, 1904, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this first day of March, A. D. 1906.

[Seal United States Circuit Court of Appeals, Seventh Circuit.]

EDWARD M. HOLLOWAY,
Clerk of the United States Circuit Court of
Appeals for the Seventh Circuit.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to Elbert B. Hand, Andrew Dietrich, and E. McDill, Trustees of the Racine Knitting Company, Bankrupt, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, at the city of Washington in the District of Columbia, thirty (30) days after the date of this citation, pursuant to an appeal allowed and filed in the Clerk's office of the United States Circuit Court of Appeals for the Seventh Circuit, wherein Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, are appellants, and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in said appeal mentioned, should not be corrected and why speedy justice should not be done the parties in that behalf.

Witness the Honorable Peter S. Grosscup, Judge of the United States Circuit Court of Appeals for the Seventh Circuit, this 20th day of February, A. D. 1906.

P. S. GROSSCUP,
Judge of the United States Circuit Court of Appeals for the Seventh Circuit.

Service of the foregoing citation is hereby accepted, this 22d day of February, 1906.

JOHN B. SIMMONS,
Counsel for Trustees of Racine Knitting Company, Bankrupt.

[Endorsed:] 1090. In the Matter of Racine Knitting Co., Bankrupt, Security Warehousing Co. *et al. vs.* Elbert B. Hand *et al.*, Trustees, etc. Citation. Filed Mar. 1, 1906. Edward M. Holloway, Clerk. Henry S. Robbins, Home Insurance Building, Chicago.

Endorsed on cover: File No. 20,138. U. S. circuit court appeals, 7th circuit. Term No. 636. Security Warehousing Company, W. B. McKeand, The L. C. Hyde & Brittan Bank of Beloit, and Citizens Bank of Mukwonago, appellants, *vs.* Elbert B. Hand, Andrew Dietrich, and E. McDill, trustees of the Racine Knitting Company, bankrupt. Filed March 19th, 1906. File No. 20,138.